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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ESTATE OF ANDREW CLARK COURNEY,  
deceased, by and through JANET E.  
WATRAL, Personal Representative,

Plaintiff,

vs.

VIGOR MARINE, LLC, a foreign limited  
liability company; VIGOR INDUSTRIAL,  
LLC, a foreign limited liability company;  
VIGOR ALASKA, LLC, a foreign limited  
liability company; WASHINGTON MARINE  
REPAIR, LLC, a foreign limited liability  
company; VANCE MATTIX and TUESDAY  
MATTIX, individually and the marital  
community composed thereof,

Defendants.

NO.

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff Estate of Andrew Clark Courney, by and through the Personal  
Representative Janet E. Watral, against the above-named Defendants, and states and alleges as  
follows:

**I. PARTIES & JURISDICTION**

1.1 Janet E. Watral is the Personal Representative of the Estate of Andrew Clark  
Courney (the Estate) by order of the Clallam County Superior Court, Cause No. 18-4-00017-

1 05. Ms. Watral brings this action in her capacity as Personal Representative on behalf of the  
2 Estate for the wrongful death of her husband Andrew Clark Courney, and on behalf of the  
3 Estate's surviving beneficiaries, as authorized by RCW 4.20 *et seq.*

4 1.2 Defendant Vigor Marine, LLC, is a foreign limited liability company  
5 authorized to conduct business, and does in fact conduct business, in King County,  
6 Washington. Based on information and belief, this defendant was the employer and/or  
7 principal of Defendant Vance Mattix. Based on further information and belief, this  
8 defendant is the parent company and/or subsidiary of one or more of the following  
9 defendants: Vigor Industrial, LLC, Vigor Marine, LLC, and Vigor Alaska, LLC.  
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11 1.3 Defendant Vigor Industrial, LLC, is a foreign limited liability company  
12 authorized to conduct business, and does in fact conduct business, in King County,  
13 Washington. Based on information and belief, this defendant was the employer and/or  
14 principal of Defendant Vance Mattix. Based on further information and belief, this  
15 defendant is the parent company and/or subsidiary of one or more of the following  
16 defendants: Vigor Industrial, LLC, Vigor Marine, LLC, and Vigor Alaska, LLC.  
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18 1.4 Defendant Vigor Alaska, LLC, is a foreign limited liability company  
19 authorized to conduct business, and does in fact conduct business, in King County,  
20 Washington. Based on information and belief, this defendant was the employer and/or  
21 principal of Defendant Vance Mattix. Based on further information and belief, this  
22 defendant is the parent company and/or subsidiary of one or more of the following  
23 defendants: Vigor Industrial, LLC, Vigor Marine, LLC, and Vigor Alaska, LLC.  
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1           1.5     Defendant Washington Marine Repair, LLC, is a foreign limited liability  
2 company authorized to conduct business, and does in fact conduct business, in King County,  
3 Washington. At all times material hereto, this defendant owned and maintained the  
4 commercial truck that was being operated by Defendant Vance Mattix. Based on information  
5 and belief, this defendant was the employer and/or principal of Defendant Vance Mattix.  
6  
7 Based on further information and belief, this defendant is the parent company and/or  
8 subsidiary of one or more of the following defendants: Vigor Industrial, LLC, Vigor Marine,  
9 LLC, and Vigor Alaska, LLC.

10           1.6     Based on information and belief, Defendants Vance Mattix and Tuesday  
11 Mattix are believed to be married and therefore constitute a marital community under the  
12 laws of the state of Washington. Based on further information and belief, these defendants  
13 reside in Clallam County, Washington.

14           1.7     Based on information and belief, and at all times material hereto, Defendant  
15 Vance Mattix was acting within the scope of his employment and/or agency with Defendants  
16 Vigor Industrial, LLC, Vigor Marine, LLC, Vigor Alaska, LLC, and Washington Marine  
17 Repair, LLC (also known as the foreign limited liability company defendants). One or more  
18 of these limited liability company defendants are therefore vicariously liable for the negligent  
19 acts and/or omissions of Defendant Vance Mattix as described herein under the legal theories  
20 of principal/agent, master/servant and respondeat superior.  
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23           1.8     Defendants Vigor Industrial, LLC, Vigor Marine, LLC, Vigor Alaska, LLC,  
24 and Washington Marine Repair, LLC, all have offices and/or conduct business in King  
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1 County, Washington. Therefore, King County Superior Court is a proper venue for this  
2 action.

## 3 **II. RELEVANT FACTS**

4 2.1 On or about October 18, 2017, Defendant Vance Mattix was operating a  
5 company motor vehicle and heading north on Kitchen Dick Road in Sequim, Clallam County,  
6 Washington.

7 2.2 Defendant Vance Mattix had consumed alcohol before and/or while driving  
8 the company vehicle.

9 2.3 Defendant Vance Mattix's ability to drive the company vehicle was  
10 appreciably affected by the alcohol he had consumed.

11 2.4 Defendant Vance Mattix was driving at a high rate of speed, and well above  
12 the 20-mph posted speed limit.

13 2.5 Defendant Vance Mattix was driving the company vehicle in an unsafe and  
14 reckless manner according to other drivers.

15 2.6 Defendant Vance Mattix was tailgating other vehicles and was weaving within  
16 and outside his lane.

17 2.7 Defendant Vance Mattix failed to negotiate the curve where Kitchen Dick  
18 Road intersected with Lotzgesell Road.

19 2.8 At approximately the same time, Andrew Clark Courney was operating a  
20 motor vehicle and heading west on Lotzgesell Road.

21 2.9 When Defendant Vance Mattix failed to negotiate the curve, his company  
22 vehicle collided into Mr. Courney's vehicle on the driver's side.  
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1           2.10 The impact between the two vehicles was significant and pushed Mr.  
2 Courney's vehicle off the roadway.

3           2.11 Mr. Courney sustained severe injuries after being struck by Defendant Vance  
4 Mattix.  
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6           2.12 Mr. Courney was trapped inside his vehicle and had to be extricated by  
7 emergency responders after they arrived on the scene.

8           2.13 Mr. Courney was conscious at the scene according to emergency responders.

9           2.14 Mr. Courney was transported to the local hospital where he was pronounced  
10 deceased by medical personnel.

11           2.15 Defendant Vance Mattix was later determined to be substantially impaired by  
12 his alcohol consumption according to law enforcement officers.  
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14           2.16 Defendant Vance Mattix was arrested for vehicular homicide.  
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16   **III. COUNT ONE – NEGLIGENCE**

17           3.1 Plaintiff re-alleges the allegations set forth in Sections I through II and  
18 incorporates them as though fully set forth herein.

19           3.2 Defendant Vance Mattix owed the Plaintiff and Andrew Clark Courney a duty  
20 of care and a duty to act reasonably and carefully.  
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22           3.3 Defendant Vance Mattix breached his duty of care and his duty to act  
23 carefully and reasonably by, among other things, operating a commercial truck while being  
24 impaired by his alcohol consumption.  
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1           3.4     Defendant Vance Mattix breached his duty of care and his duty to act  
2 carefully and reasonably by, among other things, driving his company vehicle in a reckless and  
3 unsafe manner

4           3.5     Defendant Vance Mattix breached his duty of care and his duty to act  
5 carefully and reasonably by, among other things, causing a collision with Mr. Courtney's  
6 vehicle and causing Mr. Courtney's death.

7           3.6     As a result of Defendant Vance Mattix's negligent, grossly negligent and/or  
8 reckless conduct, Plaintiff and the decedent were injured, suffered, and continue to suffer,  
9 physical disability and pain, emotional trauma, medical expenses, loss of earnings and earning  
10 capacity, loss of consortium, destruction of the marital and parent-child relationships and other  
11 damages.  
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15    **IV. COUNT TWO – WRONGFUL DEATH**

16           4.1     Plaintiff re-alleges the allegations set forth in Sections I through III and  
17 incorporates them as though fully set forth herein.

18           4.2     The negligent, grossly negligent and/or reckless acts and/or omissions of  
19 Defendant Vance Mattix and the foreign limited liability company defendants were a  
20 proximate cause of the wrongful death of Andrew Clark Courtney.  
21

22           4.3     As a proximate cause of Defendants' negligent, grossly negligent, reckless  
23 and/or tortious conduct, the Estate has suffered damages including the loss of the accumulation  
24 of income and incurred medical, funeral, and burial expenses, and the conscious pain,  
25 suffering, anxiety and fear of impending death experienced by the decedent, in such amounts  
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1 as will be proven at the time of trial together with interest thereon at the statutory rate from the  
2 date of death or the date the expenses were incurred.

3 4.4 As a proximate cause of Defendants' negligent, grossly negligent, reckless  
4 and/or tortious conduct, the Estate's beneficiaries have suffered damages including economic  
5 loss, loss of consortium, destruction of the marital and parent-child relationships and the loss of  
6 love, care, affection, companionship, instruction, protection, and guidance expected from the  
7 decedent, in such amounts as will be proven at the time of trial.  
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10 **V. COUNT THREE – NEGLIGENT HIRING, TRAINING & SUPERVISION**

11 5.1 Plaintiff re-alleges the allegations set forth in Sections I through IV and  
12 incorporates them as though fully set forth herein.

13 5.2 The foreign limited liability company defendants have negligently and grossly  
14 negligently failed to properly hire, train and/or supervise its employees and/or agents with due  
15 care and good judgment.  
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17 5.3 As a proximate cause of the foreign limited liability company defendants'  
18 failure to properly hire, train and/or supervise its employees and/or agents, the Plaintiff and the  
19 decedent were injured, suffered, and continue to suffer, physical disability and pain, emotional  
20 trauma, medical expenses, loss of earnings and earning capacity, loss of consortium and other  
21 damages.  
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23 **VI. COUNT FOUR – NEGLIGENT ENTRUSTMENT**

24 6.1 Plaintiff re-alleges the allegations set forth in Sections I through V and  
25 incorporates them as though fully set forth herein.  
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1           6.2    The foreign limited liability company defendants entrusted the company  
2 motor vehicle to its employee or agent Vance Mattix.

3           6.3    The foreign limited liability company defendants knew or should have known  
4 that Vance Mattix was reckless or incompetent to safely operate the company motor vehicle,  
5 and that said driver's recklessness or incompetence created an unreasonable risk of harm to the  
6 public.

7           6.4    The death of Andrew Clark Courney was proximately caused by the negligent  
8 entrustment of the company motor vehicle to Defendant Vance Mattix.

9           6.5    The Estate's damages were proximately caused by the negligent entrustment  
10 of company motor vehicle to Defendant Vance Mattix.

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13                                   **VII. COUNT FIVE – TORT OF OUTRAGE**

14           7.1    Plaintiff re-alleges the allegations set forth in Sections I through VI and  
15 incorporates them as though fully set forth herein.

16           7.2    The defendants' acts and omissions as described herein are extremely  
17 outrageous and egregious, shocking and/or reckless.

18           7.3    As a result of the defendants' extreme and/or reckless conduct, the Plaintiff and  
19 its beneficiaries have suffered, and will continue to suffer, extreme and severe emotional  
20 distress.  
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24                                   **VIII. SIXTH CAUSE OF ACTION -- AGENCY AND VICARIOUS LIABILITY**

25           8.1    Plaintiffs re-allege the allegations set forth in Sections I through VII and  
26 incorporate them as fully set forth herein.



1           8.2     The defendants, some or all, were acting with the express and/or apparent  
2 authority of the other defendants concerning the negligent acts and/or omissions committed  
3 by the others, including those committed by Defendant Vance Mattix.

4           8.3     The foreign limited liability company defendants were acting through the  
5 acts and omissions of their employees, officers, members, partners and the individually  
6 named defendants as described herein, and therefore said companies and businesses are  
7 vicariously liable for said acts and omissions.

8           8.4     The acts and omissions of one defendant were done with the actual and  
9 apparent knowledge and authority of all other defendants, and therefore all defendants are  
10 vicariously liable for said acts and omissions of each defendant that is named herein.

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13                           **IX. NO COMPARATIVE FAULT**

14           9.1     The damages suffered by Plaintiff and the decedent were not caused by any  
15 fault, carelessness, recklessness or negligence on decedent's part, but were instead proximately  
16 caused solely by the tortious acts and/or omissions of Defendant Vance Mattix and the foreign  
17 limited liability company defendants.

18           9.2     There are no other entities, known or unknown, which caused or contributed to  
19 the decedent's injuries and/or death.

20           9.3     There are no other entities, known or unknown, which caused or contributed to  
21 the Plaintiff's damages.

1 **VII. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and  
3 severally, as follows:

4 1. For all damages sustained by Plaintiff, including the Estate and all statutorily  
5 recognized beneficiaries, in amounts proven at trial, including without limitation, all past and  
6 future economic and non-economic damages allowed by RCW 4.20 *et seq.*, and the common  
7 law, including the loss of the accumulation of income, incurred medical, funeral, and burial  
8 expenses, loss of consortium, destruction of the marital and parent-child relationships, and  
9 the conscious pain, suffering, anxiety and fear of impending death experienced by the  
10 decedent;  
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12 2. Punitive damages against all defendants as authorized by Oregon law;

13 3. Interest calculated at the maximum amount allowable by law, including pre-  
14 and post-judgment interest;  
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16 4. A reasonable attorney's fee as allowed by law;

17 5. Costs and disbursements pursuant to statute; and

18 6. Other and further relief as this Court may deem just and equitable.  
19

20 Dated this 23<sup>rd</sup> day of May 2018.

21 **DAVIS LAW GROUP, P.S.**

22 /s/CHRISTOPHER M. DAVIS

23 Christopher M. Davis, WSBA #23234

24 Maridith E. Ramsey, WSBA #46266

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Attorneys for Plaintiff