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IN THE COURT OF CLAIMS OF OHIO

DARLENE LANE FERRARO,  
Individually and as Fiduciary of the  
Estate of Junior Lee Lane, Deceased  
3631 E. 78<sup>th</sup> Street  
Cleveland, Ohio 44105

Plaintiffs

vs.

THE OHIO STATE UNIVERSITY  
MEDICAL CENTER  
410 West 10th Avenue  
Columbus, Ohio 43210

Defendant

Case No.

2011-10371

Judge

JUDGE ALAN C. TRAVIS

ORIGINAL

COMPLAINT

(Jury Demand Endorsed Hereon)

COUNT ONE

(Negligence)

1. Plaintiff, Darlene Lane Ferraro, has been appointed Fiduciary of the Estate of Junior Lee Lane by the Cuyahoga County Probate Court. Plaintiff continues in such capacity to date. Plaintiff, Fiduciary, brings this wrongful death action as the personal representative for the exclusive benefit of the surviving next of kin of the deceased, who was a resident of Cuyahoga County, Ohio.

2. At all times mentioned here, Defendant, The Ohio State University Medical Center, was and is an agency and instrumentality of the State of Ohio.

3. At all times mentioned herein, Rolf Barth (hereinafter "Barth"), was owner and/or operator of a 2004 Mercedes C240 in Brook Park, Ohio.

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4. On or about September 10, 2009, the Decedent, Junior Lee Lane, had been a passenger in the 1997 Dodge Ram operated by Gary Fury, which was traveling in a northerly direction on Interstate 71 in the second lane from the left. Fury had a trailer attached to the 1997 Dodge Ram which began to sway and twist. Fury stopped his 1997 Dodge Ram in the second lane from the left.

5. At that time the Decedent exited the stopped vehicle with another passenger in an attempt to reconnect the trailer to the Dodge Ram. The other passenger, Jesse Fury, stood at the rear of the trailer waving a white shirt to alert any drivers of the stopped Dodge Ram. A number of vehicles stopped.

6. Rolf Barth, who was also traveling in a northerly direction on Interstate 71 in the second to the left lane , appeared to have his head down and was not paying attention to the roadway in front of him when he failed to see Jesse Fury waving the shirt until the last moment. Barth swerved to the right. Barth's 2004 Mercedes C240 struck the rear passenger side of the trailer which struck Lane in the chest.

7. Lane was trapped under the right front side of the 2004 Mercedes C240 until extricated by emergency personnel from the scene. Lane ultimately died from his severe injuries.

8. Barth has claimed that at the time of the fatal accident he was engaged in the course of his employment or official responsibilities with Defendant, The Ohio State University College of Medicine, Department of Pathology.

9. In accordance with R.C. §2743.16(B), Plaintiff notified Defendant, The Ohio State University Medical Center, Office of Risk Management, of this claim for wrongful death/survivorship damages and requested coverage of the losses. This claim was verbally denied and Plaintiff's counsel was advised suit could be commenced.

10. In the event that Barth is conclusively determined to have been engaged in the course of his employment or official responsibilities within the meaning of R.C. §2743.16(B), then the State of Ohio is liable to Plaintiff for the wrongful death and survivorship damages attributable to Barth's negligence, recklessness, and wanton misconduct.

11. As a direct and proximate result of Defendant's negligence, Plaintiff sustained severe and debilitating injuries that caused his death.

12. As a direct and proximate result of his death, the Decedent's beneficiaries have suffered, and will continue to suffer, damages for the loss of his society over his life expectancy, including loss of companionship, consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training and education.

13. As a direct and proximate result of his death, the Decedent's heirs at law at the time of his death suffered damages for loss of support and loss of prospective inheritance.

14. As a direct and proximate result of his death, the Decedent's beneficiaries further suffered, and will continue to suffer, damages for mental anguish and emotional trauma.

15. As a direct and proximate result of Defendants' negligent conduct, the Decedent's Estate was caused to incur expenses necessary for his funeral and burial.

16. Plaintiffs, therefore, say that they have been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

**COUNT TWO**

**(Survivorship)**

17. Plaintiffs incorporate by reference all of the previous allegations as if fully rewritten herein.

18. The Decedent's next of kin suffered extreme mental anguish and emotional distress as a result of the Defendant's aforementioned conduct as previously described herein.

19. As a direct and proximate result of the Defendants' aforementioned conduct and negligence, the Decedent was caused to suffer severe pain and mental anguish from the time of the incident until the time of his death, including knowledge of his impending death or injury

20. As a direct and proximate result of Defendants' aforementioned conduct and negligence, Plaintiffs have lost support, Decedent's love, comfort and society, and have sustained emotional distress.

21. As a direct and proximate result of Defendants' aforementioned conduct and negligence, Plaintiffs have incurred cremation, funeral and other related expenses.

22. As a direct and proximate result of Defendants' above described conduct and negligence, Plaintiff sustained property damage, including destruction of his clothing and personal property on him at the time of the incident.

23. As a direct and proximate result of Defendants' aforementioned conduct and negligence, the Deceased, Junior Lee Lane, was caused to sustained severe and conscious physical, emotional, and mental pain during the time of the incident. Further, Defendants proximately caused the premature and wrongful death of Junior Lee Lane.

24. Plaintiff, therefore, say that they have been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

WHEREFORE, Plaintiff requests that this Court (1) determine whether Barth was engaged in the course of his employment or official responsibilities at the time of the fatal accident for purposes of R.C. §2743.16(B) and, if so (2) impose a judgment against Defendant for compensatory damages in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00). Plaintiff further requests any additional legal, declaratory, or equitable relief deemed appropriate. Costs should be taxed to Defendant.

RESPECTFULLY SUBMITTED,



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**JURY DEMAND**

Trial by jury is hereby demanded.



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