

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

ANASTASIA CASON

Plaintiff,

v.

MIGUEL E. HERNANDEZ ROBLES; THE  
HEALTH FOOD STORE; ABC INSURANCE  
COMPANIES; DOES I-X and any other joint  
tortfeasors.

Defendants.

CIVIL NO. 14-1842 ( )

RE: TORT ACTION FOR  
NEGLIGENCE PURSUANT TO  
ARTICLES 1802 & 1803,  
31 L.P.R.A. §§ 5141 & 5142.

JURY TRIAL DEMANDED

**COMPLAINT**

**TO THE HONORABLE COURT:**

**APPEARS NOW** the Plaintiff, ANASTASIA CASON (hereinafter referred to as "Plaintiff"), through the undersigned counsel, and hereby states, alleges, and requests as follows:

**JURISDICTIONAL BASIS**

1. This case is based upon diversity jurisdiction under 28 U.S.C. §1332.
2. Plaintiff is a citizen of and resides in the state of Florida.
3. All Defendants are individuals, corporations, business entities, or partnerships who are citizens of Puerto Rico or of a state other than Florida.

4. The matter in controversy exceeds the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.
5. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391, since the events and acts or omissions giving rise to this claim occurred in this district.

#### **THE PARTIES**

6. Plaintiff **ANASTASIA CASON** (hereinafter “Ms. Cason” or “Plaintiff”) is of legal age, a citizen and resident of the state of Florida.
7. Defendant **MIGUEL E. HERNÁNDEZ ROBLES** (hereinafter “Mr. Hernández Robles” is of legal age, a citizen and resident of the Commonwealth of Puerto Rico.
8. Defendant **THE HEALTH FOOD STORE** (hereinafter “Health Food Store”) is a for profit corporation incorporated under the laws of the Commonwealth of Puerto Rico which owns, operates, and/or manages the business known as The Health Food Store.
9. Defendants **ABC INSURANCE COMPANIES** are corporations organized or operating under the laws of the Commonwealth of Puerto Rico, which insure one or more co-defendants for the acts and/or omissions described herein and/or are liable for the injuries and damages sustained by Plaintiff.
10. Defendant **DOES I-X** are individuals, corporations, or entities that are citizens of Puerto Rico or a state other than Florida who are unknown and are jointly and severally liable for Plaintiff’s damages.

**GENERAL ALLEGATIONS**

1. Ms. Cason is a broker for distribution companies that sell organic produce and health food to grocery shops around the United States.
2. On May of 2014, Ms. Cason visited Puerto Rico to attend a health and organic food products trade show as part of her job.
3. As part of her visit to Puerto Rico, Ms. Cason had to visit the Fajardo area stores.
4. Ms. Cason, along with three colleagues, were asked to make Mr. Miguel E. Hernández Robles's store their last stop, so that Mr. Hernández Robles could take them out on his boat to the bioluminescent bay in Fajardo.
5. On May 6<sup>th</sup>, 2014, Ms. Cason visited Mr. Hernández Robles's store, The Health Food Store, as part of her sales visits for that day.
6. After the visit, Mr. Hernández Robles took Ms. Cason, along with her three colleagues, to his house to change clothing.
7. After they changed clothing, Mr. Hernández Robles hooked up his boat, an approximately 17 foot fishing vessel, to his car and trailered it to the edge of the bioluminescent bay.
8. Mr. Hernández Robles was accompanied by his girlfriend, which added up to a total of six people on board the small vessel.
9. Everyone was wearing life-vests on board, and remained seated during the journey.
10. Mr. Hernández Robles launched the boat on the bay and began to follow the excursions that were underway at the bioluminescent bay.

11. By that time, it was already nightfall and it was very dark.
12. Mr. Hernández Robles was steering the boat at a slow pace until the mouth of the bay.
13. Ms. Cason saw the group of excursions they were following turn left at the mouth of the bay, but Mr. Hernández Robles turned right and idled slowly near the bay.
14. He started driving the boat at a very fast pace, until the boat was teetering from side to side, losing control of the vessel until it flipped over.
15. Suddenly, Ms. Cason, along with everyone else on board, was ejected from her seat.
16. Ms. Cason was struck on the head and knocked unconscious.
17. Ms. Cason woke up submerged underwater and pinned down by the sinking boat.
18. Ms. Cason repeatedly struck her head against the boat, due to her life-vest's flotation capacity.
19. Unable to free herself from beneath the sinking boat, and in total darkness, Ms. Cason suddenly realized she would probably drown, and began thinking about her children.
20. In an attempt to survive, Ms. Cason continued groping in the darkness for a way out from under the water.
21. Eventually, she felt something that seemed like the edge of the boat and pulled herself towards it, then she began to float up to the surface.

22. Once she surfaced, Ms. Cason cried for help to her companions, who were also in the water.
23. One of her colleagues began to signal the other excursions they had followed for help with her phone's flashlight.
24. Since Mr. Hernández Robles had taken them so far out in the middle of the bay, no one could see nor hear them in the darkness.
25. Ms. Cason kept pleading for help, and insisting she needed medical attention.
26. Mr. Hernández Robles then informed them they would have to swim ashore.
27. Ms. Cason did not know if she could swim to shore, due to her injuries, but Mr. Hernández Robles told her they had no other choice.
28. They were approximately  $\frac{3}{4}$  of a mile from the shore at this time.
29. Ms. Cason had to swim in the darkness for  $\frac{3}{4}$  of a mile, with her injuries, to finally get to the shore.
30. When they arrived to shore, Mr. Hernández Robles made them walk through the woods to another beach area where he told Ms. Cason and the others to rinse off.
31. Then, they walked for about one mile to Mr. Hernández Robles's truck and were dropped off at his house to get their rental car.
32. Ms. Cason suffered cuts and bruises, as well as head and neck injuries.
33. Upon returning home to Orlando, Florida, Ms. Cason went to the doctor and was told she had suffered a concussion and injuries to the neck.

34. Aside from her head and neck injuries, Ms. Cason also suffers from jaw problems due to this incident.
35. Ms. Cason has sought medical care from a neurosurgeon for her head and neck injuries, a maxillofacial surgeon for her jaw problems, and a psychologist to help her cope with the traumatic experience of being so close to drowning.
36. Plaintiff has suffered physical, emotional, and mental damages as a direct result of this incident including, but not limited to, the physical and emotional pain and suffering of a concussion, severe neck pain, jaw problems, as well as other physical, emotional, and mental damages.
37. Ms. Cason has also suffered economic damages including, but not limited to, loss of income, past and future medical expenses, as well as other economic damages.

**FIRST CAUSE OF ACTION – NEGLIGENCE OF MIGUEL E. HERNÁNDEZ ROBLES**

38. The allegations contained above are incorporated by reference as if again fully set forth herein.
39. Defendant, through his acts or omissions caused damage to Plaintiff through fault or negligence in violation of 31 PR. Laws Ann. 5141 (Article 1802 of Puerto Rico's Civil Code).
40. On or about May 6<sup>th</sup>, 2014, Mr. Hernández Robles owned the boat that Ms. Cason was riding on when this tragic incident happened.
41. Ms. Cason went to visit Mr. Hernández Robles as part of her health food product brokerage duties.

42. Mr. Hernández Robles invited Ms. Cason and her business colleagues to board the 17-foot fishing vessel.
43. Mr. Hernández Robles, as owner of the small boat, had a duty to Plaintiff to keep the boat safe and free from dangerous conditions, so that Plaintiff and her colleagues would not suffer harm or damage.
44. Mr. Hernández Robles breached his duty of care to Plaintiff by failing to keep the boat safe and free from dangerous conditions, so that Plaintiff and her colleagues would not suffer harm or damage.
45. Mr. Hernández Robles failed to properly maintain a safe and steady speed, turned sharply and failed to keep the boat from flipping over, a very dangerous condition.
46. Mr. Hernández Robles knew or should have known that boarding six people onto a 17-foot fishing vessel and accelerating and turning suddenly would cause dangerous conditions to Plaintiff and her colleagues.
47. Mr. Hernández Robles failed to adequately operate the boat so that it would not flip over and Plaintiff would not be injured.
48. The dangerous operation of the boat caused by Mr. Hernández Robles directly and proximately caused Ms. Cason to fall into the water, be knocked unconscious and nearly drown.
49. The dangerous condition and operation of the boat caused by Mr. Hernández Robles directly and proximately caused Ms. Cason's physical and emotional injuries and damages.
50. Mr. Hernández Robles failed to take appropriate safety measures to ensure

that Plaintiff was not injured aboard his boat.

51. As a direct and proximate result of Mr. Hernández Robles's negligence and carelessness, Plaintiff sustained physical, emotional, mental, and economic damages.

**SECOND CAUSE OF ACTION – NEGLIGENCE OF MIGUEL E. HERNANDEZ**

**ROBLES AS REPRESENTATIVE OF THE HEALTH FOOD STORE**

52. The allegations contained above are incorporated by reference as if again fully set forth herein.
53. Defendant, through his acts or omissions caused damage to Plaintiff through fault or negligence in violation of 31 PR. Laws Ann. 5141 (Article 1802 of Puerto Rico's Civil Code).
54. Miguel E. Hernández Robles is the owner, primary stockholder and/or chief executive officer of The Health Food Store.
55. The acts or omissions incurred in by Miguel E. Hernández Robles furthered The Health Food Store's economic interests.
56. The Health Food Store was to benefit from Mr. Hernández Robles's business entertainment of Ms. Cason and her colleagues' in Fajardo, Puerto Rico.
57. At all times herein, Mr. Hernández Robles acted as a representative or agent of his business, The Health Food Store, when he hosted and entertained Ms. Cason and her business colleagues for their visit.
58. As a direct and proximate result of Mr. Hernández Robles's negligence and carelessness, Plaintiff sustained physical, emotional, mental, and economic



damages.

**THIRD CAUSE OF ACTION - ABC INSURANCE COMPANIES**

59. The allegations contained above are incorporated by reference as if again fully set forth herein.
60. Defendants ABC Insurance Companies were, at the time herein pertinent, authorized to do business as such in Puerto Rico, and issued an insurance policy on behalf of Defendants or another tortfeasor.
61. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is directly liable for the negligence or fault of its insured.
62. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.
63. As a result, Defendants ABC Insurance Companies are liable to Plaintiff for the damages caused to her by Defendants or another tortfeasor.

**FOURTH CAUSE OF ACTION - DOES I-X**

64. The allegations contained above are incorporated by reference as if again fully set forth herein.
65. Defendants Does I-X caused damages to Plaintiff through fault or negligence in violation of 31 L.P.R.A. §5141 or 31 L.P.R.A. §5142 via their employees, agents, representatives or assignees.
66. Defendants Does I-X are jointly and severally liable for the damages caused to Plaintiff.

**DAMAGES**

67. The allegations contained above are incorporated by reference as if again fully set forth herein.
68. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason has suffered physical, emotional, mental, and economic damages.
69. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason suffered a concussion, neck injuries, and jaw problems, among other things, all causing severe physical pain and suffering.
70. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason has had to undergo intensive treatments with physicians ranging from neurosurgeons to maxillofacial surgeons, which have taken economic, as well as emotional tolls on the Plaintiff.
71. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason suffers from Temporomandibular Joint Dysfunction, which requires massages to relieve and causes constant extreme pain.
72. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason is now required to wear a facial appliance at nighttime in order to release pressure from her jaw while she sleeps.
73. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason suffered a traumatic episode underwater, then having to swim a long distance to shore, and walking through unknown woods in the darkness has caused emotional damages so severe that she

has required psychological counseling to attempt to cope with them.

74. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Ms. Cason had to take two weeks off from work, using up her vacation days, to recuperate, but was forced to return to work while still in extreme pain due to the need to support herself.
75. As a result of the negligent acts, omissions, or misrepresentations of Defendants, Plaintiff has suffered economic damages including but not limited to out of pocket medical expenses, medical liens, and payment.
76. Ms. Cason's treatments have become too expensive for her to pay for, and thus she has been obligated to stop them due to the high financial toll they take on her single income household.
77. Plaintiff's physical injuries and pain and suffering as a result of the injuries sustained in the incident have a reasonable value of no less than FOUR HUNDRED ELEVEN THOUSAND DOLLARS (\$411,000.00).
78. Plaintiff's emotional and mental damages as a result of the injuries sustained in the incident have a reasonable value of no less than TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00).
79. Plaintiff's economic damages and loss of productivity as a result of the injuries sustained in the incident have a reasonable value of no less than FIFTY THOUSAND DOLLARS (\$50,000.00).
80. To date, Plaintiff's medical expenses have amounted to \$12,618.58 and continue to accrue.

**TRIAL BY JURY DEMANDED**

81. Plaintiff hereby demands trial by jury.

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly and severally, in the amount of no less than SEVEN HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) plus costs incurred, reasonable attorneys' fees, and such other and further relief as to this Honorable Court may seem just and proper under the law.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 21st day of November 2014.

*Plaintiff's Counsel:*

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