



5. The subject matter in controversy is within the jurisdictional limits of this court. This court has jurisdiction over the parties because Defendants are either Texas residents and/or entities licensed to do business in the State of Texas.

**IV.**  
**VENUE**

6. Venue has previously been established in Nueces County is proper under Section 15.002(a)(3) and section 15.005 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE.

**V.**  
**FACTS**

7. On or about September 13, 2011, Plaintiff was seriously injured while working at an oil drilling site near Dilley, Texas. The site was operated, maintained, and under the control of Defendants **UNIT DRILLING COMPANY AND UNIT TEXAS DRILLING, LLC**. Plaintiff's employer had been contracted by said Defendants to replace seals on the door of the blow out preventer at the site. Thus, Plaintiff was a business invitee of Defendants, **UNIT DRILLING COMPANY, AND UNIT TEXAS DRILLING, LLC**. In order to gain access to the blow out preventer, employees on the site had Gilmore stand on a wooden pallet that was raised into the air by a forklift, rather than using a man basket which is required by the Occupational Safety and Health Administration ("OSHA"). The onsite superintendent, Jerry Chaney wanted to rinse the door during the job and after Unit employees had begun rinsing the door, Jerry Chaney ordered the forklift driver, Ronaldo Luna to back up the forklift without a spotter while Gilmore was standing on the forklift. Ronaldo Luna reversed the forklift and in doing so severed a cable wire laid across the ground, used to support an industrial-sized metal pulley. This caused the pulley to fall and land directly on Gilmore's right hand. Plaintiff's hand was crushed by the force of the impact, and he required emergency surgical intervention. At the time of the incident, Ronaldo Luna and all other agents servants or employees of any Defendant referred to herein were within the course and scope of their

employment and/or under the control of Defendants **UNIT DRILLING COMPANY, AND UNIT TEXAS DRILLING, LLC**. As a result of the incident, Plaintiff sustained serious and debilitating injuries and has incurred substantial damages.

**VI.**  
**CAUSES OF ACTION**

**A.**  
**NEGLIGENCE**

8. Plaintiff would show that the incident in question was proximately caused by the negligence of one or more of the agents, servants, and/or employees of one or more of the Defendants in one or more of the following respects:

- a. Failing to give sufficient warnings and/ or instructions;
- b. Failing to adequately inspect the area surrounding the forklift where the cable was laid;
- c. Failing to safely secure the cable in a safe manner;
- d. Failing to furnish a safe place to work;
- e. Failing to keep a proper lookout; and
- f. Failing to warn.

9. Plaintiff would show that the forklift operator in question was negligent in that he owed Plaintiff a duty to exercise ordinary care in the operation and use of the forklift at issue, and breached said duty in one or more of the following respects:

- g. Failing to maintain a proper lookout;
- h. Failing to pay attention to his surroundings;
- i. Failing to reverse in a safe manner;
- j. Failing to maintain a clear distance between the forklift the cable wire in question;

- k. Failing to timely apply the brakes; and
- l. Failing to operate a forklift as would a reasonable prudent forklift operator.

10. Each of the foregoing acts and/or omissions, whether taken singularly or in any combination, constitute negligence which proximately caused the incident in question as well as Plaintiff's injuries, damages, and other losses as set forth more specifically herein.

**B.**  
***RESPONDEAT SUPERIOR***

11. Plaintiff would further show that Defendants **UNIT DRILLING COMPANY, AND UNIT TEXAS DRILLING, LLC** are liable to Plaintiff for each and every negligent act and/or omission of the forklift operator Ronaldo Luna, the employee who laid the cable at issue along the path of the forklift, all those responsible for maintaining the safety of the workplace, and all those responsible for supervising Ronaldo Luna under the doctrine of *respondeat superior*. Specifically, Plaintiff would show that:

- a. Plaintiff was injured as a result of the incident in question;
- b. The forklift operator, Ronaldo Luna, the employee who laid the cable at issue along the path of the forklift, all those responsible for maintaining the safety of the workplace, and all those responsible for supervising Ronaldo Luna were employees of Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC**; and
- c. The incident in question occurred while the above mentioned agents, servants or employees were acting in the course and scope of their employment with Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC** – that is, the act or inaction of the above was:
  - i. Within said agents, servants or employees' general authority;
  - ii. In furtherance of the business of Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC**; and
  - iii. For the accomplishment of the object for which said agents, servants or employees were hired.

12. By reason of the foregoing, Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC** are vicariously liable to Plaintiff inasmuch as said agents, servants or employees are directly liable to Plaintiff.

**C.**

**NEGLIGENT HIRING / TRAINING / SUPERVISION / RETENTION**

13. Plaintiff would further show that Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC** were negligent in that said Defendants owed Plaintiff a duty to hire, supervise, train and retain competent employees, and breached said duty in one or more of the following aspects:

- a. hiring the forklift operator in question when a reasonable, prudent employer in the same or similar circumstances would not;
- b. failing to adequately train the forklift operator in question as would a reasonable, prudent employer in the same or similar circumstances;
- c. failing to adequately supervise the forklift operator in question as would a reasonable, prudent employer in the same or similar circumstances; and
- d. retaining the forklift operator in question as an employee when a reasonable, prudent employer in the same or similar circumstances would not;

14. Each of the foregoing acts and/or omissions, whether taken singularly or in any combination, constitute negligence which proximately caused the incident in question as well as Plaintiff's injuries, damages, and other losses as set forth more specifically herein.

**D.**

**NEGLIGENT ENTRUSTMENT**

15. Plaintiff would further show that Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC** were negligent in the following respects:

- a. At the time of the incident, said Defendants owned the forklift in question and entrusted the same to the forklift operator referenced in section V., paragraph 7, *supra*;
- b. At the time of the incident, the forklift operator in question was an unlicensed, incompetent, and/or reckless operator;

- c. At the time of the incident, said Defendants either knew or should have known the forklift operator in question was an unlicensed, incompetent, and/or reckless operator;
- d. The forklift operator in question was negligent on the occasion in question; and
- e. Said forklift operator's negligence proximately caused Plaintiff's injuries, damages, and other losses as set forth more specifically herein.

**E.**  
**GROSS NEGLIGENCE**

16. Plaintiff would further show that the negligent conduct of all named Defendants was more than momentary thoughtlessness or inadvertence. Rather, Defendants' conduct involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff. Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety, and welfare of Plaintiff and others similarly situated.

**VII.**  
**DAMAGES**

17. As a direct and proximate result of the incident in question, Plaintiff suffered serious injuries to his right hand which required emergency surgical intervention. However, even with the surgery, the damage to Plaintiff's right hand is permanent in nature. Plaintiff no longer has full strength or use of his right hand and, in all reasonable probability, will never regain full strength or use of his right hand for the remainder of his natural life. In addition, Plaintiff is a tradesman who is right-hand dominant. Plaintiff's inability to grasp tools or other objects has directly affected his ability to find and maintain gainful employment. As a further result of such injuries, Plaintiff has endured and suffered tremendous physical pain and, in all reasonable probability, will continue to suffer physical pain for the remainder of his natural life. Plaintiff has also suffered extreme mental and emotional anguish as a result of the above and, in all reasonable probability, will continue to suffer extreme mental and emotional anguish for the remainder of his natural life.

18. As a further result of the above, Plaintiff has incurred expenses for medical care and

attention. Such expenses were necessary for the treatment and care of the injuries resulting from the incident complained of herein. Further, the amounts charged for such services were reasonable at the time and place the services were provided. In addition, there is a reasonable probability that Plaintiff will require future medical care and attention and will therefore incur future reasonable and necessary expenses as a result.

19. Plaintiff further requests both pre-judgment and post-judgment interest on all damages as allowed by law.

**VIII.**  
**RULE 47 STATEMENT OF RELIEF SOUGHT**

20. As a result of the special exceptions filed by Defendants, Plaintiff amends his petition. However, Plaintiff states that he completely and fully relies on the discretion of a jury to determine the amount to be awarded in this case, and even though he may be forced to state a maximum amount pursuant to Defendants' motion, Plaintiff relies on the jury to award whatever amount is reasonable and necessary, including an amount that may be less than, equal to, or more than the amount included herein by Plaintiff. Therefore, if Defendants intend to use this amount inappropriately by telling the jury that this is an amount that Plaintiff has sought in this case, then Plaintiff will respond by telling the jury that this is not an amount being sought by Plaintiff, but rather an amount put in the pleadings in response to Defendants' attempt to compel Plaintiff to commit on a specific amount and perhaps to use this amount to their advantage at trial in front of a jury. Plaintiff believes the amount of damages is within the discretion of the jury and at this time does not believe that a jury should find any amount more than TWENTY MILLION DOLLARS (\$20,000,000.00) in damages

**IX.**  
**JURY DEMAND**

21. Plaintiff demands a trial by jury and the required jury fee has been paid.

**X.**  
**RULE 194 DISCLOSURES**

22. All named Defendants were served with Rule 194 Request for Disclosures in Plaintiff's Original Petition.

**XI.**  
**PRAYER**

23. **WHEREFORE, PREMISES CONSIDERED,** Plaintiff requests that Defendants **UNIT DRILLING COMPANY and UNIT TEXAS DRILLING, LLC** be cited to appear and answer, and on final trial hereafter, that Plaintiff have judgment against said Defendants in an amount within the minimum jurisdictional limits of this Court, together with all pre-judgment and post-judgment interest as allowed by law, costs of Court, and for such other and further relief to which Plaintiff may be justly entitled by law and equity, including but not limited to:

- a. Past medical expenses;
- b. Future medical expenses;
- c. Pain and suffering in the past;
- d. Pain and suffering in the future;
- e. Mental anguish in the past;
- f. Mental anguish in the future;
- g. Physical impairment in the past;
- h. Physical impairment in the future;
- i. Physical disfigurement in the past;
- j. Physical disfigurement in the future;
- k. Loss of wages in the past;
- l. Loss of wages in the future;
- m. Loss of earning capacity in the past; and
- n. Loss of earning capacity in the future.
- o. Pre-judgment interest;
- p. Post-judgment interest; and
- q. Exemplary damages;

Respectfully submitted,  
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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing was delivered to the parties named below by the method of service indicated on this the 29th day of March, 2017.

**Via E-Service**

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