

STATE OF MICHIGAN
IN THE 36TH CIRCUIT COURT FOR VAN BUREN COUNTY
Civil Division

HORTENCIA RAMIREZ, HERLINDA
RAMON SALAS, and JOVITA RAMON SALAS
FOR HERSELF and AS NEXT FRIEND OF
A.A.R.

Case No. 17-067326 NO

Hon.

PLAINTIFFS,

v.

ROBERTSON CROP DUSTING SERVICE, INC.,
DANIEL J. ROBERTSON,
AND DANIEL ISOM

DEFENDANTS.

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COMPLAINT

There is no other pending or resolved
civil action arising out of the same transaction or
occurrence as alleged in the complaint.

Facts:

1. Plaintiffs are a group of seasonal farmworkers who resided and worked in Covert, Van Buren County, MI at all relevant times.
2. Defendant, Robertson Crop Dusting Service, Inc., (Defendant RCDS) is a crop-dusting service corporation that, upon information and belief, was established in or around South Haven, Michigan.
3. Defendant, Daniel John Robertson, (Defendant Robertson) is upon information and belief, the Owner and a pilot for Robertson Crop Dusting Service, Inc., and operated in or around South Haven, Michigan, at all relevant times.
4. Defendant, Daniel Isom, (Defendant Isom) was upon information and belief, the pilot for Robertson Crop Dusting Service, Inc., who operated the airplane on August 7, 2014, in Covert, Michigan.
5. The incident complained of occurred in Covert, Van Buren County, Michigan.
6. The amount in controversy exceeds \$25,000.00, exclusive of interest and costs.
7. Plaintiffs Jovita Ramon Salas, Herlinda Ramon Salas, and A.A.R. were blueberry pickers.
8. Plaintiff Hortencia Ramirez worked receiving and weighing blueberries.
9. Plaintiffs worked for Galen's Blueberries Farm.
10. Galen's Blueberries Farm's field is located at 70788 County Road 376, Covert, MI, 49043.
11. On August 7, 2014, Plaintiffs were working at 70788 County Road 376, Covert, MI 49043. See Aerial Photo of the Work Area and the Spray Area, attached as Exhibit 1.

12. Defendant Isom was spraying pesticides on an adjacent field with a crop duster airplane.
See Aerial Photo of the Work Area and the Spray Area, attached as Exhibit 1.
13. Plaintiffs were in plain view of Defendant Isom.
14. Defendant Isom failed to abort spraying the pesticides upon seeing the Plaintiffs.
15. Defendant Isom, due to his failure to exercise reasonable care, sprayed the Plaintiffs with pesticides.

Count I. Negligence

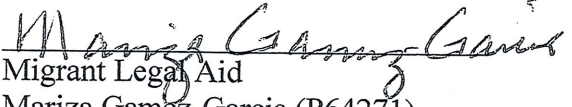
16. Plaintiffs reallege and incorporate the allegations set forth above as if fully set forth herein.
17. Defendant Isom owed a duty of reasonable care when he operated the crop-dusting airplane.
18. The pesticides applied on August 7, 2014, by Defendant Isom were inherently dangerous. See Defendant RCDS's Application Records, attached as Exhibit 2; Effects of Petroleum Distillate (Ingredient in Mustang Maxx), attached as Exhibit 3; and Effects of Ingredients in Abound, attached as Exhibit 4.
19. Pesticides must be sprayed in accordance with safety guidelines. See Mustang Maxx Pesticide Label, attached as Exhibit 5 and Abound Pesticide Label, attached as Exhibit 6.
20. The guidelines require avoiding spraying pesticides in a way that will contact workers directly or through drift.
21. Defendant Isom sprayed the pesticides despite seeing Plaintiffs.
22. Defendant Isom continued to spray the pesticides despite seeing the Plaintiffs.
23. Defendant Isom was negligent.

24. Defendant Isom's failure to not spray or cease spraying the pesticides was a breach of the duty owed to Plaintiffs.
25. Defendant Isom breached the standard of care to which a reasonable person would have adhered.
26. But for Defendant Isom's breach of the standard of care owed to Plaintiffs, Plaintiffs would not have been injured.
27. Defendant Isom was an employee of Defendant RCDS on August 7, 2014.
28. Defendant Isom was operating within the scope of his employment in spraying the pesticides.
29. Defendant RCDS is vicariously liable for Defendant Isom's actions on August 7, 2014.
30. Plaintiffs were, in fact, injured due to Defendant Isom's negligent spraying of pesticides on August 7, 2014.
31. All Plaintiffs had headaches and other health issues after being sprayed and still continue to have health issues.
32. Plaintiff Ramirez had to seek medical care from Lakeland Community Hospital on August 7, 2014, the day of exposure.
33. Plaintiff Ramirez continues to have a host of assorted health problems directly attributable to pesticide exposure, including headaches, earaches, and dizziness.
34. Plaintiff Jovita Ramon Salas gets headaches on random days and is sensitive to chemicals and pesticides.
35. Plaintiff Herlinda Ramon Salas continues to suffer from headaches after being sprayed with the pesticides.

36. Plaintiff A.A.R. continues to suffer from headaches and gets nauseous because of being sprayed with the pesticides.
37. Plaintiff Ramirez's quality of life has been reduced due to Defendants' actions.
38. All other Plaintiffs suffer a reduction in their quality of life too.
39. Defendants are therefore liable to Plaintiffs for actual, incidental, and consequential damages.

PLAINTIFFS REQUEST that this court enter judgment against Defendants by entering a declaratory judgment that Defendants were grossly negligent in their pesticide application on August 7, 2014. As a result of this negligent behavior, Plaintiffs further request that this court award Plaintiffs: the loss of Plaintiffs' earning potential, adjusted for present value, resulting from the medical issues stemming from Defendants' negligence, in the amount of \$229,395.64 for Hortencia Ramirez, \$279,414.72 for Herlinda Ramon Salas, \$161,417.70 for Jovita Ramon Salas, and \$616,109.48 for A.A.R., for a total of \$1,288,337.54; exemplary damages this court deems just and proper for all of the emotional consequences resulting from Defendants' negligent actions; costs and reasonable attorneys' fees; and any additional relief that the Court deems just and proper.

Dated: 07/04/17


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