





















# Tennessee Uniform Traffic Crash Report

Reporting Agency Name

*Bristol Police Dept*

Document Type

- Original Document (select 1)
- Supplement Document
- Amended Document
- Reference Number Overide

Page 1 of 1  
REFERENCE NUMBER

Type of Crash

- Fatal (select 1)
- Injury
- Property Damage (Over)
- Property Damage (Under)

Reporting Agency Type

- Tennessee Highway Patrol (THP)
- City/Metropolitan Police Dept. (CPD)
- Sheriff's Office
- Capital Police
- Commercial Vehicle Enforcement (CME)
- College/University Campus
- National Park Service
- Other

Totals  
Vehicles Killed Injured

0	1	000	1
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Date of Crash

MONTH DAY YEAR  
 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec  
 unkn unkn unkn

Day of Crash

SUN MON TUES WED THURS FRI SAT SUN

Time of Crash

0716

County City Area

Urban Rural

Trafficway/Land Way/Private Way

- Trafficway - OPEN (select 1)
- Trafficway - CLOSED
- Parking Lot
- Private Property or Private Road

TDOT Use Only

Rail/Crossing ID #

Time Notified

0716

Time Arrived

0726

Police Pursuit Involved?

Yes  No

ROUTE NUMBER SPL CASE CO SEQ LOG MILE LOC

GPS Coordinate

LATITUDE

LONGITUDE

School Bus Related?

Yes  No

Hwy No. and Street Name

*Hwy 394*

Estimated

FL MI

FROM/AT

*Earhart Rd*

Mile Post

Vehicle Number

Total Number of Occupants

Driver Presence

- Driver Operated Vehicle
- Driver Operated Non-Contact Vehicle
- Driver Operated Government Vehicle
- Driverless Vehicle

Vehicle Number

Total Number of Occupants

Driver Presence

- Driver Operated Vehicle
- Driver Operated Non-Contact Vehicle
- Driver Operated Government Vehicle
- Driverless Vehicle

DRIVER NAME First M.I. Last

ADDRESS Street & Number

City & State

ZIP

Phone Number

Driver's License Number

State

Exp. Year

Date of Birth

Age

Sex

Race

White Black Other

License Class

Endorsements

Complied With?

Restrictions

Complied With?

Injury Code

Salvage Equipment

AIRBAG

Not Applicable

EJECTED

Ejection Path

*03*

Injury Code

Salvage Equipment

AIRBAG

Not Applicable

EJECTED

Ejection Path

TRAPPED/EXTRICATED

Not Applicable

Trapped/Extricated

Unknown

Medical Transport

TRAPPED/EXTRICATED

Not Trapped

Trapped/Not Extricated

Unknown

Medical Transport

Driver

Less 25 mi

Out of State

Ambulance/Hospital

Residence

Over 25 mi

Year of Vehicle

Make

Model

Color

Body Type

Vehicle ID Number

Body Code

License Plate Number

State

Exp. Year

Vehicle Owner

First

M.I.

Last

Same

Street Address

City & State

ZIP

Phone Number

Violations (may select 3)

None

Other Moving

Alcohol/Drugs

Other Non-Moving

Reckless/Careless

Pending

Charges

Violations (may select 3)

None

Other Moving

Alcohol/Drugs

Other Non-Moving

Reckless/Careless

Pending

Charges

Investigating Officer Rank and Name: (Print Name)

*PTL K Vance*

Judge ID Number

*332*

District/Zone

*South*

Car No

*332*

Report Date

*12-17-2008*

## Harmful Event

### Most Harmful Event per Vehicle

(select 1 per vehicle)

#### Collision with Object Not Fixed

V1	V2	Description
08	08	Pedestrian
09	09	Pedalcycle
10	10	Railway Train
50	50	Deer (Animal)
11	11	Other Animal
12	12	Motor Vehicle in Transport
13	13	Motor Vehicle in Transport in Other Roadway
14	14	Parked Motor Vehicle
15	15	Other Type Non-Motorist
18	18	Other Object (Not Fixed)

#### Collision with Fixed Object

V1	V2	V1	V2	Description
17	17	30	30	Boulder
18	18	31	31	Building
20	20	32	32	Impact Attenuator
21	21	33	33	Bridge Pier/Abutment
22	22	34	34	Bridge Parapet End
23	23	35	35	Bridge Rail
24	24	38	38	Guardrail Face
25	25	39	39	Guardrail End
26	26	40	40	Median Barrier
27	27	41	41	H-way Traffic Sign Post
28	28	42	42	Overhead Sign Support
29	29	47	47	Luminaire/Light Supp
46	46	43	43	Traffic Signal Support
		30	30	Utility Pole
		31	31	Other Post, Pole, Supp.
		32	32	Culvert
		33	33	Curb
		34	34	Ditch
		35	35	Embankment
		38	38	Fence
		39	39	Wall
		40	40	Mail Box
		41	41	Shrubbery
		42	42	Tree
		47	47	Fire Hydrant
		43	43	Other Fixed Object

#### Non-Collision

V1	V2	V1	V2	Description
01	01	05	05	Overturn
02	02	07	07	Fire/Explosion
03	03	16	16	Immersion
04	04			Jackknife
		05	05	Fell/Jumped from Vehicle
		07	07	Other Non-Collision
		16	16	Thrown or Falling Object

V1	V2	Description
99	99	Unknown Most Harmful Event

### First Harmful Event for the Crash

25

#### Manner of Collision at First Harmful Event (select 1)

0	Not Collision with Motor Vehicle in Transport	4	Angle
1	Rear-End	5	Sideswipe, Same Direction
2	Head-On	6	Sideswipe, Opposite Direction
3	Rear-to-Rear	9	Unknown

#### Relation to Junction at First Harmful Event (select 1)

Non-Interchange		Interchange Area	
01	Non-Junction	10	Intersection
02	Intersection	11	Intersection-Related
03	Intersection-Related	12	Driveway
04	Driveway, Alley Access, etc.	13	Entrance/Exit Ramp Related
05	Entrance/Exit Ramp Related	14	Crossover-Related
06	Rail Grade Crossing	15	Other Location in Interchange
07	Crossover-Related	19	Unknown, Interchange Area
08	Unknown-Non-Interchange		
	99	Unknown	Relation to junction

#### Relation to Roadway at First Harmful Event

(select 1)

01	On Roadway	06	Off Roadway—Location Unknown
02	Shoulder	07	In Parking Lane
03	Median	08	Gore
04	Roadside—Left	11	Parking Lot or Private Property
05	Roadside—Right	99	Unknown
10	Outside Trafficway		

## Driver Factors

### Driver Condition (may select 3)

V1	V2	Description
00	00	Appeared Normal
01	01	Had Been Drinking
02	02	Illegal Drug Use
03	03	Ill (Sick)
04	04	Apparently Fatigued
05	05	Apparently Asleep
06	06	Reaction to Drugs/Medication
07	07	Failure to Take Drugs/Medication
08	08	Physical Impairment (Narrative)
09	09	Emotional (Depressed, Angry, Disturbed)
99	99	Unknown Condition

### Driver Actions (may select 5)

V1	V2	Description
10	10	No Contributing Actions
11	11	Inattentive (Eating, Reading, Talking, etc.)
12	12	Interfered With by Passenger
13	13	Driving Left of Center
14	14	Driving Wrong Way on One-Way Roadway
15	15	Failure to Comply with License Restrictions
16	16	Failure to Keep in Proper Lane or Running Off Road
17	17	Failure to Yield Right of Way
18	18	Failure to Obey Traffic Controls
19	19	Failure to Observe Warnings or Instructions
20	20	Failure to Signal Intentions
21	21	Failure to Use Lights
22	22	Following Improperly
23	23	Improper Backing
24	24	Improper Lane Changing
25	25	Improper Passing
26	26	Improper Turn
27	27	Improperly Towing or Pushing Vehicle
28	28	Improperly Carrying Hazardous Cargo
29	29	Improper Loading of Vehicle Cargo or Passengers
30	30	Operator Inexperience
31	31	Operating without Required Equipment
32	32	Over Correcting
33	33	Careless or Erratic Driving
34	34	Reckless or Negligent Driving
35	35	Speed Too Fast
36	36	Speed Too Slow
37	37	Vision Obstructed, by What? (Narrative)
38	38	Using Telephone, Two-Way Radio
98	98	Other (Narrative)
99	99	Unknown Action

### Highway Construction/Maintenance Zone

1	None	(select 1)
2	Construction Zone	
3	Maintenance Zone (Short Duration)	
4	Utility Zone (Short Duration)	
5	Work Zone, Type Unknown	
9	Unknown	

### Light Conditions (select 1)

1	Daylight	4	Dawn
2	Dark—Not Lighted	5	Dusk
3	Dark—Lighted	9	Unknown

### Weather Conditions (select 1)

01	No Adverse Conditions	08	Smog, Smoke
02	Rain	09	Blowing Sand, Soil, Dirt, or Snow
03	Sleet, Hail	10	Severe Crosswind
04	Snow	98	Other (Narrative)
05	Fog	99	Unknown
06	Rain and Fog		
07	Sleet and Fog		

## Driver Alcohol/Drugs

### Presence

V1	V2	Description
0	0	Neither Alcohol or Drugs Present
1	1	Yes (Alcohol Present)
2	2	Yes (Drugs Present)
3	3	Yes (Alcohol and Drugs Present)
9	9	Unknown

### Determination Method

V1	V2	Description
1	1	Evidential Test
3	3	Behavioral
4	4	Passive Alcohol Sensor
5	5	Observed
6	6	Other

### Alcohol

(select 1)		Test Type (select 1 if applies)		
V1	V2	V1	V2	
96	96	Test Refused	1	Blood
97	97	None Given	2	Breath
97	97	Test Given, Results Unknown	3	Urine
98	98	Test Given, Insufficient Sample	6	Other
99	99	Unknown, if tested		
		Alcohol Results		
00	00	Negative BAC	Positive Results	

### Drugs

(select 1)		Test Type (select 1 if applies)		
V1	V2	V1	V2	
95	95	Test Refused	1	Blood
96	96	None Given	2	Breath
97	97	Test Given, Results Unknown	3	Urine
98	98	Test Given, Insufficient Sample	6	Other
99	99	Unknown, if tested		
		Drug Results		
00	00	No Drugs Detected		
01	01	Marijuana		
02	02	Cocaine		
03	03	Opiates		
04	04	Amphetamines		
05	05	PCP		
06	06	Other Drug Medication		
09	09	Drug Type Unknown		

### Driver/Vehicle Maneuver (select 1)

00	00	Going Straight
01	01	Negotiating Curve
02	02	Passing or Overtaking Another Vehicle
03	03	Right Turn to Private Drive
04	04	Right Turn to Street
05	05	Right Turn on Red Permitted
06	06	Right Turn on Red Not Permitted
07	07	Left Turn to Private Drive
08	08	Left Turn to Street
09	09	Turning from Wrong Lane
10	10	Making a U-Turn
11	11	Slowing or Stopped for Signal or Sign
12	12	Slowing or Stopped for Turning Traffic
13	13	Slowing or Stopped for Entering Traffic
14	14	Slowing or Stopped Other
15	15	Stopped in Traffic Lane
16	16	Starting in Traffic
17	17	Backing from Drive
18	18	Backing from On Street Parking Space
19	19	Backing Up
20	20	Entering from Private Drive
21	21	Leaving a Parked Position
22	22	Parked Legally—Yes
23	23	Parked Legally—No
24	24	Changing Lanes or Merging
25	25	Maneuvering to Avoid Another Vehicle, Animal, Pedestrian, Object, etc.
98	98	Other (Narrative)
99	99	Unknown

Document Type

REFERENCE NUMBER

Supplement Document  
Amended Document

Reference Number Overall

Local Agency Number

Please Do Not Write In This Microfilm Space

Vehicle Number	NAME	First	M.I.	Last	Street & Number	City & State	ZIP	Male	Sex	Female	Code	SEAT Position	SAFETY Equipment	AIRBAG
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Motorists	Other Cyclist	EJECTED	Totally Ejected	Ejection Path	TRAPPED/EXTRICATED	Trapped/Extricated	Medical Transport	Ambulance/Hospital	Alcohol	Drugs
Non-Motorists	Other Cyclist	Not Applicable	Partially Ejected	Unknown	Not Applicable	Trapped/Not Extricated	Unknown			
Pedestrian	Other Pedestrian	Not Ejected	Unknown	Not Trapped	Unknown					
Bicyclist	Other Non-Motorist	Not Ejected	Unknown	Not Trapped	Unknown					

Vehicle Number	NAME	First	M.I.	Last	Street & Number	City & State	ZIP	Male	Sex	Female	Code	SEAT Position	SAFETY Equipment	AIRBAG
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Non-Motorists	Other Cyclist	Not Applicable	Partially Ejected	Unknown	Not Applicable	Trapped/Not Extricated	Unknown			
Pedestrian	Other Pedestrian	Not Ejected	Unknown	Not Trapped	Unknown					
Bicyclist	Other Non-Motorist	Not Ejected	Unknown	Not Trapped	Unknown					

Vehicle Number	NAME	First	M.I.	Last	Street & Number	City & State	ZIP	Male	Sex	Female	Code	SEAT Position	SAFETY Equipment	AIRBAG
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Non-Motorists	Other Cyclist	Not Applicable	Partially Ejected	Unknown	Not Applicable	Trapped/Not Extricated	Unknown			
Pedestrian	Other Pedestrian	Not Ejected	Unknown	Not Trapped	Unknown					
Bicyclist	Other Non-Motorist	Not Ejected	Unknown	Not Trapped	Unknown					

Vehicle Number	NAME	First	M.I.	Last	Street & Number	City & State	ZIP	Male	Sex	Female	Code	SEAT Position	SAFETY Equipment	AIRBAG
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Pedestrian	Other Pedestrian	Not Ejected	Unknown	Not Trapped	Unknown					
Bicyclist	Other Non-Motorist	Not Ejected	Unknown	Not Trapped	Unknown					

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Non-Motorists	Other Cyclist	Not Applicable	Partially Ejected	Unknown	Not Applicable	Trapped/Not Extricated	Unknown			
Pedestrian	Other Pedestrian	Not Ejected	Unknown	Not Trapped	Unknown					
Bicyclist	Other Non-Motorist	Not Ejected	Unknown	Not Trapped	Unknown					

Vehicle Number	NAME	First	M.I.	Last	Street & Number	City & State	ZIP	Male	Sex	Female	Code	SEAT Position	SAFETY Equipment	AIRBAG
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Motorists	Other Cyclist	EJECTED	Totally Ejected	Ejection Path	TRAPPED/EXTRICATED	Trapped/Extricated	Medical Transport	Ambulance/Hospital	Alcohol	Drugs
Non-Motorists	Other Cyclist	Not Applicable	Partially Ejected	Unknown	Not Applicable	Trapped/Not Extricated	Unknown			
Pedestrian	Other Pedestrian	Not Ejected	Unknown	Not Trapped	Unknown					
Bicyclist	Other Non-Motorist	Not Ejected	Unknown	Not Trapped	Unknown					

Non-Motorist Number	Location At Intersection	Location Not At Intersection
N1 N2	N1 N2	N1 N2
	00 00 In Crosswalk	00 00 In Parking Lane
	00 00 On Roadway, Crosswalk Availability Unknown	00 00 On Road Shoulder
	00 00 On Roadway, Not in Crosswalk	00 00 Unknown
	00 00 Not on Roadway	00 00 Bike Path
	00 00 On Roadway, Crosswalk Not Available	00 00 Outside Trafficway
	00 00 Unknown	

Vehicle Striking Non-Motorist	Vehicle Striking Non-Motorist
N1 Vehicle #	N2 Vehicle #
N1 N2 Condition (may select 3)	N1 N2 Actions (may select 4)
00 00 Appeared Normal	00 00 Construction/Maintenance/Utility Worker
00 00 Had Been Drinking	00 00 Failure to Use Lights
00 00 Illegal Drug Use	00 00 Improper Loading of Vehicle Cargo or Passengers
00 00 Ill (Sick)	00 00 Operator Inexperience
00 00 Reaction to Drugs/Medication	00 00 Operating without Required Equipment
00 00 Failure to Take Drugs/Medication	00 00 Riding in Roadway Against Traffic
00 00 Blind	00 00 Vision Obstructed, By What? (Narrative)
00 00 Restricted to Wheelchair	00 00 Unknown Action
00 00 Other Physical Impairment (Narrative)	
00 00 Emotional (Depressed, Angry, Disturbed)	
00 00 Unknown Condition	
	00 00 No Contributing Actions
	00 00 Not Visible
	00 00 Darting, Running or Stumbling into Road
	00 00 Crossing with Signal
	00 00 Crossing against Signal
	00 00 Crossing, No Signal
	00 00 Coming from Behind Parked Car
	00 00 Standing in Safety Zone
	00 00 Getting on or off Other Vehicle
	00 00 Pushing or Working on Vehicle
	00 00 Other Working in Roadway
	00 00 Failure to Yield Right of Way
	00 00 Failure to Obey Traffic Controls
	00 00 Failure to Observe Warnings or Instructions
	00 00 Failure to Signal Intentions

Vehicles

**V1**

First Impact: 00 01 02 03 04 05 06 07 08 09 10 11 12 13

(may select 3) Darken Numbered Area(s) of Vehicle Damage

Truck/Bus Supplement: 1 Yes  No

Emergency Use: 1 Yes  No

Rollover: 1 Yes  No

Fire: 1 Yes  No

Estimated Damage: 1 Under \$400  2 Over \$400

**V2**

First Impact: 00 01 02 03 04 05 06 07 08 09 10 11 12 13

(may select 3) Darken Numbered Area(s) of Vehicle Damage

Truck/Bus Supplement: 1 Yes  2 No

Emergency Use: 1 Yes  2 No

Rollover: 1 Yes  2 No

Fire: 1 Yes  2 No

Estimated Damage: 1 Under \$400  2 Over \$400

Vehicle Defects (may select 2):  None

Vehicle Special Use:  None

Vehicle Trailer:  None

Vehicle Towed: 1 Driven Away  2 Towed Away  If Towed, Where? National

Vehicle Defects (may select 2): 0 None

Vehicle Special Use: 0 None

Vehicle Trailer: 0 None

Vehicle Towed: 1 Driven Away  2 Towed Away  If Towed, Where?

Vehicle Going/On: H On: Hwy 394

Vehicle Going/On: H On:

Trafficway Flow (select 1)

V1 V2

1 1 Not Physically Divided (Two Way Trafficway)

2 2 Divided Highway, Median Strip (Without Traffic Barrier)

3 3 Divided Highway, Median Strip (With Traffic Barrier)

4 4 One Way Trafficway

5 5 Unknown

Roadway Surface Type (select 1)

V1 V2

1 1 Asphalt

2 2 Concrete

3 3 Brick or Block

4 4 Gravel, Slag, or Stone

5 5 Dirt

6 6 Other (Narrative)

7 7 Unknown

Trafficway Hazards (may select 3)

V1 V2

00 00 No Apparent Hazards

01 01 Inadequate Warning of Exits, Lanes Narrowing, Traffic Control, etc.

02 02 Defective Shoulders

03 03 No or Obscured Pavement Markings

04 04 Holes, Deep Ruts, Bumps

05 05 Loose Material on Surface

06 06 Slippery Surface

07 07 Surface Under Water

08 08 Surface Washed Out

09 09 Under Construction/Maintenance

10 10 Recent Previous Accident Scene Nearby

11 11 Street Lights Not Working

12 12 Traffic Control Device Not Visible

13 13 Other Hazards (Narrative)

14 14 Unknown

Traffic Control Devices (select 1)

V1 V2

00 00 No Controls

01 01 Traffic Light

02 02 Flushing Yellow (Caution)

03 03 Flushing Red (Stop)

04 04 Lane Use Control Signal

05 05 Stop Sign

06 06 Yield Sign

07 07 School Zone Signs

08 08 Warning Signs

09 09 Construction Zone Controls

10 10 RR Crossbucks

11 11 RR Flasher

12 12 RR Gates

13 13 Traffic Control Person

14 14 Other (Narrative)

Roadway Route Signing

V1 V2 (select 1)

1 1 Interstate

2 2 U.S. Route

3 3 State Route

4 4 County Route

5 5 Municipal Route

6 6 Other (Narrative)

7 7 Unknown

Number of Travel Lanes (select 1)

V1 V2

1 1 One Lane

2 2 Two Lanes

3 3 Three Lanes

4 4 Four Lanes

5 5 Five Lanes

6 6 Six Lanes

7 7 Seven or More Lanes

8 8 Other (See Narrative)

9 9 Unknown

Roadway Surface Conditions (select 1)

V1 V2

1 1 Dry

2 2 Wet

3 3 Snow or Slush

4 4 Ice

5 5 Sand, Mud, Dirt or Oil

6 6 Other (Narrative)

7 7 Unknown

Roadway Character

V1 V2 Alignment: (select 1)

1 1 Curve

2 2 Straight

3 3 Unknown

Profile: (select 1)

1 1 Level

2 2 Grade

3 3 Hillcrest

4 4 Other (Narrative)

5 5 Unknown

Other Property Damage? (select all that apply)

1 State Property  2 City Property

3 County Property  4 Private Property

Amount of Damage (Estimate)

1 Under \$400  2 Over \$400

Traffic Control Device Functioning? (select 1 if applies)

V1 V2

1 1 Device Not Functioning

2 2 Device Functioning Improperly

3 3 Device Functioning Properly

Speed Limit

V1	V2
55	
0	0
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9

Access Control (select 1)

V1 V2

1 1 No Control (Unlimited Access)

2 2 Full Control (ONLY Ramp Entry and Exit)

3 3 Other (Narrative)

Owner Information for Other Property Damage

Name: State of Tenn. Phone:

Address: Guardrail Describe Property: Guardrail

Name: Phone:

Address: Describe Property:



Witness

Name: First MI Last

Address: Street & Number ZIP

City & State Home Phone #

Date of Birth

Please Do Not Write In This Allocation Space

# Truck & Bus Crash Information

(This Section Must Be Completed for Each Truck or Bus Involved in this Crash.)

When To Use This Section:

Did the crash involve...

Part A

A truck with at least two axles and six tires?

A truck with a hazardous materials placard?

A bus designed to carry 16 or more persons, including the driver?

**STOP!** If all the responses to Part A are "NO" do not complete this Truck & Bus Crash Information Section. If there are any "YES" answers, continue to Part B.

Part B

Any person who was fatally injured?

Any injured person requiring transport for immediate medical treatment?

One or more vehicles that had to be towed from the scene as a result of the crash?

One or more vehicles that required repair or were provided assistance before proceeding from scene under own power?

**STOP!** If all the responses to Part B are "NO" do not continue. If there are any "YES" answers, please complete this Truck & Bus Crash Information Section.

Vehicle #

Carrier Identification Numbers

US DOT

TN DOS

Source:

Vehicle Side  
Shipping Papers  
Trip Manifest  
Driver  
Log Book

• Interstate Carrier?

ICC/MC

Carrier Address

Carrier Name

• Hazardous Material Placard Displayed?

• Hazardous Cargo was Released?

Class Numbers

List the Hazardous Material(s) by name in this load:

UN Numbers

List the Name(s) of Released Hazardous Material(s):

Combined Gross Vehicle Weight Rating

LBS

Total # of Axles

Vehicle Configuration



Bus



Single-unit truck 3+ axles



Truck tractor



Tractor/trailer



Unknown Heavy Truck



Single-unit truck 2 axles, 6 tires



Truck trailer



Tractor/semi-trailer



Tractor/trailer

Cargo Body Type



Bus



Concrete Mixer

SEQUENCE OF EVENTS FOR THIS VEHICLE

- Ran off Road
- Jackknife
- Overturn (Rollover)
- Downhill Runaway
- Cargo Loss or Shift
- Explosion or Fire
- Separation of Units
- Collision involving pedestrian

- Collision involving motor vehicle in transp.
- Collision involving parked motor vehicle
- Collision involving train
- Collision involving pedalcycle
- Collision involving animal
- Collision involving fixed object
- Collision involving other object
- Other



Van Enclosed box



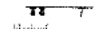
Auto transporter



Cargo Tank



Garbage hauler



Flatbed



Trailer



Dump

Vehicle #

Carrier Identification Numbers

US DOT

TN DOS

Source:

Vehicle Side  
Shipping Papers  
Trip Manifest  
Driver  
Log Book

• Interstate Carrier?

ICC/MC

Carrier Address

Carrier Name

• Hazardous Material Placard Displayed?

• Hazardous Cargo was Released?

Class Numbers

List the Hazardous Material(s) by name in this load:

UN Numbers

List the Name(s) of Released Hazardous Material(s):

Combined Gross Vehicle Weight Rating

LBS

Total # of Axles

Vehicle Configuration



Bus



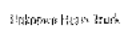
Single-unit truck 3+ axles



Truck tractor



Tractor/trailer



Unknown Heavy Truck



Single-unit truck 2 axles, 6 tires



Truck trailer



Tractor/semi-trailer



Tractor/trailer

Cargo Body Type



Bus



Concrete Mixer

SEQUENCE OF EVENTS FOR THIS VEHICLE

- Ran off Road
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- Explosion or Fire
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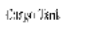
- Collision involving motor vehicle in transp.
- Collision involving parked motor vehicle
- Collision involving train
- Collision involving pedalcycle
- Collision involving animal
- Collision involving fixed object
- Collision involving other object
- Other



Van Enclosed box



Auto transporter



Cargo Tank



Garbage hauler



Flatbed



Trailer



Dump

DIAGRAM  
Indicate North By Arrow



Earhart Rd

Hwy 394

NOT TO Scale

DO NOT WRITE OUTSIDE THIS AREA

Narrative The driver of vehicle #1 was going west on Hwy 394 when she ran off the road and hit the end of the guardrail.

Investigator's Signature: *R. Van*

Date: 12-17-2008 Report Reviewed By: Lt. J. A. Jester

Date: 12/17/2008





guardrail end treatment systems were researched, tested, developed, manufactured, marketed and sold in a manner consistent with the state of the art procedures at the pertinent time and that said highway guardrail systems complied with applicable highway authority, the National Cooperative Highway Research Program Report 350 criteria, meeting Federal Highway Administration requirements, for installation on the national highway system and as required by those standards/criteria.

4. That this defendant admits the allegations of paragraph 4 of the second amended complaint but specifically avers that it sells highway guardrail and end treatment systems accepted by the Federal Highway administration ("FHWA"), admits that state departments of transportation, or the applicable highway authority, can specify its products as being compliant with the National Cooperative Highway Research Program ("NCHRP") Report 350 criteria, meeting FHWA requirements, for installation on a national highway system.

5. That it admits the allegations contained in paragraphs 5, 6, 8, and 9 of the second amended complaint.

6. That it denies paragraphs numbered 7 and 12 of the second amended complaint as not explained, but it is admitted that it manufactures and sells highway guardrail and treatment systems accepted by the FHWA, admits that state Department of Transportation, or the applicable highway authority, can specify its products as being compliant with the NCHRP Report 350 criteria, meeting FHWA requirements, for installation on the national highway systems.

7. That this defendant admits that at all times, the ET – Plus was federally accepted as an energy absorbing end terminal and that it sold those devices as alleged above. All other allegations contained in paragraph 10 of the second amended complaint are denied.

8. That this defendant admits that the Texas Transportation Institute (TTI), a state agency of the Texas A & M University System, designs, develops, tests and owns the intellectual property comprising the ET – Plus guardrail end treatment system and that TTI licenses certain of its roadside device intellectual property to this defendant which comprise the ET-Plus end treatment system and therefore denies the remainder of the allegations contained in paragraphs 11 and 13 of the second amended complaint.

9. That it admits that the FHWA, United States Department of Transportation (USDOT), accepts (or deems eligible) roadside devices, tested pursuant to the NCHRP 350 criteria (or the MASH criteria), for use along and on roads and bridges built with federal funds, admits that state highway departments are required to use roadside devices accepted by FHWA pursuant to the NCHRP Report 350 criteria when the state road department constructs and repairs roads and bridges with federal funds.

10. That it admits FHWA, USDOT, or other applicable authority, accepts roadside devices (or determines that they are eligible for reimbursement under the Federal-Aid Highway Program) tested pursuant to their criteria, for use along and on roads and bridges built with federal funds, admits that state highway departments are required to use roadside devices accepted (or deemed eligible) by FHWA pursuant to NCHRP Report 350 criteria when the state road department constructs and repairs roads and bridges with federal funds.

11. That it admits FHWA, USDOT, accepts (or deems eligible) roadside devices tested pursuant to their criteria, for use along and on roads and bridges built with federal

funds, admits that state highway departments are required to use roadside devices accepted by FHWA pursuant to NCHRP Report 350 criteria when the state road department constructs and repairs roads and bridges with federal funds.

12. That it admits that all Trinity Highway Products have been accepted (or deemed eligible) by FHWA for use on the national highway system, admits that state highway departments are required to use roadside devices accepted by FHWA pursuant to NCHRP Report 350 criteria when the state road department constructs and repairs roads and bridges with federal funds.

13. That it avers that in February of 2003, TTI advised Trinity that TTI believed the impact performance of the ET Plus extruder head could be enhanced by reducing the amount of play between the downstream end of the guide channel and the W-beam, in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and agreed to check with their manufacturing facilities to determine if this enhancement could be accomplished. Trinity continued discussions with TTI as to the idea and, in May of 2005, Trinity, with the approval of TTI, manufactured an ET-Plus Extruder Head with a 4-inch guide channel attached to the extruder head. This extruder head, as manufactured, was sent to TTI, who included it as the extruder head utilized in the head on zero degree impact crash testing done on the ET Plus system during the last week of May, 2005.

14. That it avers that TTI performed a NCHRP 350, TL-3 crash test on the ET Plus system, and that TTI compiled a crash test report on the performance of the ET-Plus system during the May 2005 testing. In compiling that crash test report, TTI inadvertently omitted a detail drawing of the ET Plus extruder head that was part of the testing. However, TTI has confirmed to both the Federal Highway Administration, as well as Mr. Ali R. Hangul, PE,

CPESC, CE Manager I, Design Division of the Tennessee DOT that the ET Plus extruder head tested in May of 2005 did incorporate 4" guide channels (chute) and that the W-Beam guardrail, as well as the rail splice fed smoothly through the extruder head as designed and that the crash test in 2005 demonstrated that the test met all applicable NCHRP Report 350 evaluation criteria.

15. That it avers that Mr. Hangul accepted TTI's explanation of the 2005 testing and that TTI's answer met all of Tennessee DOT's questions on this issue.

16. That it avers that on October 11, 2012, the Federal Highway Administration confirmed that on February 14, 2012, individuals from Trinity, as well as Dr. Roger Bligh of TTI met with the FHWA and confirmed that 4-inch guide channels were attached to the ET Plus extruder head that was part of the system crash tested at TTI in May of 2005; that TTI confirmed this through Dr. Bligh; that Trinity submitted documentation demonstrating the enhancements to the ET Plus, including the reduction of the guide chute width from 5 inches to 4 inches in 2005. The FHWA determined that the Trinity ET-Plus end terminal with the 4-inch guide channels is eligible for reimbursement under the Federal-Aid Highway Program under FHWA letter CC-94 of September 2, 2005.

17. Trinity denies that anything that occurred after this accident is relevant, material or admissible at the trial of this case. That it admits that TTI designs, develops, tests and owns the intellectual property compromising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity.

18. That this defendant denies the allegations contained in paragraphs 14-44 of the second amended complaint as not explained above.

19. That Plaintiff's claims are barred in whole or in part by the applicable provisions of the United States Constitution, the Tennessee Constitution and/or the applicable Constitution of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case. These provisions include, but are not limited to, the First Amendment to the Constitution of the United States and/or pertinent portions of the Tennessee constitution because Trinity's commercial speech regarding the marketing of highway guardrail end treatment systems was neither false nor misleading.

20. That based on the state of scientific, medical, and technological knowledge existing at the time the highway guardrail end treatment systems were designed, developed, manufactured, produced, marketed, assembled, tested, distributed, or sold by Trinity, said products were reasonably safe for their normal and foreseeable use at all relevant times, or in light of existing reasonably available medical, scientific, and technological knowledge

21. That while this defendant denies any wrongdoing, it does not have sufficient information to either admit or deny the remaining allegations contained in paragraphs 45-51 of the second amended complaint and therefore demands strict proof thereof if same becomes material.

22. That this defendant denies the allegations contained in paragraphs 52-62 of the second amended complaint.

23. That while this defendant does not have sufficient information at this time to either admit or deny the allegations contained in paragraphs 63-66 of the second amended complaint, it adopts same by reference and therefore relies upon comparative fault of the co-defendants if same becomes material.

24. That this defendant denies the allegations contained in paragraph 67 of the second amended complaint as they relate to it.

25. That this defendant denies the allegations contained in paragraph 68 of the second amended complaint, denies said allegation states a cause of action for which relief may be granted and relies upon the one year statute of limitations contained therein.

26. That the allegations of paragraphs 69-71 of the second amended complaint are denied.

27. That while this defendant denies any wrongdoing whatsoever, it does not have sufficient information to either admit or deny the remaining allegations contained in paragraphs 72-75 of the second amended complaint and therefore demands strict proof thereof if the same become material.

28. That this defendant specifically relies upon the fault of plaintiff's decedent in causing the accident in question and, in the alternative, relies upon comparative fault of the co-defendants as alleged in the second amended complaint.

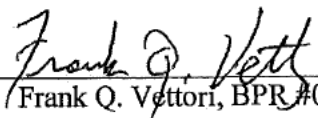
29. That this defendant moves for a bifurcated discovery and trial on the issue of punitive damages as required by law.

30. That all other allegations not heretofore admitted, explained or denied are here and now denied as if specifically so.

WHEREFORE, this defendant demands to be dismissed with its costs and demands a twelve-person jury to try its cause.

RUSSELL C. BROWN, O'NEIL, PARKER & WILLIAMSON,  
PLLC, and HALE, LYLE & RUSSELL, PC

BY:

  
Frank Q. Vettori, BPR #000714

Attorneys for Trinity Highway Products, LLC  
7610 Gleason Drive-Suite 200  
Knoxville, TN 37919  
(865) 546-7190

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that an exact copy of this pleading has been served upon counsel of record for all parties by placing same in the United States Mail, postage prepaid, or by delivering same to the office of said counsel of record.

This 7<sup>th</sup> day of Dec., 2012.

Frank Q. Veltz  
for Attorneys for Trinity Highway Products, LLC

**IN THE CIRCUIT COURT FOR SULLIVAN COUNTY  
AT BRISTOL, TENNESSEE**

<b>SANDRA LESTER, as mother and personal</b>	)	
<b>Representative/administratrix of the Estate</b>	)	
<b>Of Decedent SABRENA CARRIER,</b>	)	
<b>Representative and grandmother of A.R.C.,</b>	)	
<b>Next of kin, beneficiary and minor son of</b>	)	<b>No.: C13737 (M)</b>
<b>SABRENA CARRIER,</b>	)	
	)	<b>JURY DEMANDED</b>
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>TENNESSEE GUARDRAIL, INC.,</b>	)	<b>(Claims Commission No. 20100759</b>
<b>JAMES H. DREW CORPORATION,</b>	)	<b>consolidated with C13737 (M))</b>
<b>TRINITY HIGHWAY PRODUCTS, LLC.,</b>	)	
<b>and THE STATE OF TENNESSEE,</b>	)	
	)	
<b>Defendants.</b>	)	

**AMENDED COMPLAINT**

Plaintiff Sandra Lester, as personal representative / administratrix of the Estate of Decedent Sabrena Carrier, and as representative and grandmother of A.R.C., next of kin, beneficiary and the minor son of Sabrena Carrier, now appears, by and through counsel, in this case, which arises out of the injuries and wrongful death suffered by Sabrena Gayle Carrier ("Ms. Carrier) in a traffic collision on December 17, 2008, in Blountville, Sullivan County, Tennessee, on account of the wrongful and negligent conduct by and/or attributable to the Defendants herein; for cause of action against these Defendants, Plaintiff states the following contentions.



### **PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Sandra Lester, as personal representative / administratrix of the Estate of Decedent Sabrena Carrier, and as representative and grandmother of A.R.C., next of kin, beneficiary and the minor son of Sabrena Carrier, is a citizen and resident of Bluff City, Sullivan County, Tennessee, residing at 377 N. Carter Street, Bluff City, Tennessee 37618.

2. Defendant Tennessee Guardrail, Inc. is a domestic corporation doing business in Tennessee and at all times material to this incident was the installer of the guardrail referred to herein.

3. Defendant James H. Drew Corporation, a foreign corporation, organized in the State of Indiana, at all times relevant to this action was doing business in and/or through the jurisdiction of this Honorable Court at the time of the subject incident, and is the parent company for Tennessee Guardrail, Inc.

4. Defendant Trinity Highway Products, LLC ("Trinity"), is a foreign limited liability company, organized in the State of Delaware, which at all relevant times was doing business in the jurisdiction of this Honorable Court. Trinity's principal place of business is located at 2525 N. Stemmons Freeway, Dallas, Texas, 75207. Trinity was the manufacturer, distributor, marketer, and seller of the guardrail terminal involved in the subject collision.

5. Defendant State of Tennessee is subject to suit in this Honorable Court pursuant to T.C.A. Sections 9-8-301, *et seq.*, and 9-8-401, *et seq.*

6. Jurisdiction and venue are proper in this Honorable Court.

**THE NATURE OF THE PRODUCT DEFECT AND EVENT CAUSING  
SABRENA CARRIER'S INJURIES AND DEATH**

7. A guardrail terminal is a safety device designed to absorb energy in the event a motor vehicle collides with or impacts the terminal end of a guardrail. The quality of these safety devices is of grave and serious concern to the federal and state transportation authorities which purchase these devices for installation on roads and highways across the country.

8. Trinity has been (and remains) in the business of manufacturing guardrail systems installed in Tennessee and throughout the United States, including guardrail terminals.

9. At times relevant to this case, Trinity manufactured, distributed, marketed, and sold a guardrail terminal known as the ET-Plus; the "ET-Plus" name is a trademark of Trinity and/or Trinity's agent.

10. Based upon information and belief, through approximately 2004, the ET-Plus was a federally accepted and energy absorbing end terminal. For many years, Trinity (and/or Trinity's predecessor business entity and/or entities related to Trinity) sold the ET-Plus for use at the termination of flexible barriers on the shoulders of roadways and in roadway medians.

11. Trinity has manufactured, distributed, marketed and sold the ET-Plus at all times relevant to this action based on a license it has held, which was assigned to Trinity by a related entity and/or the Texas A&M University System ("Texas A&M"); based upon information and belief, Texas A&M acquired the patent(s) for the ET-Plus from its inventors.

12. At all relevant times, Trinity has manufactured, marketed, distributed and sold the ET-Plus guardrail terminal for use by cities, counties, and state departments of transportation, contractors and installers for roadway and highway safety.

13. At all relevant times, Trinity has manufactured, marketed, distributed and sold the ET-Plus guardrail terminal to the governmental entities and the businesses referenced above based in significant part on representations and guarantees by Trinity and its employee, officers and agents that the ET-Plus has been and is approved by the appropriate state and federal highway authorities (including the Federal Highway Administration).

14. At times relevant to this case, the ET-Plus has been represented by Trinity's officers, employees and agents to be a federally approved, energy-absorbing device installed at the terminal end of roadway guardrails.

15. At times relevant to this case, Trinity's ET-Plus has been represented by Trinity's officers, employees and agents to be one of the highest quality guardrail terminals on the market.

16. Based upon information and belief, the original production version of the ET-Plus guardrail terminal – which was not the version involved in the collision that is the subject of this case -- was originally designed and tested by and/or through Texas A&M University / Texas Transportation Institute.

17. The primary regulatory and industry authorities involved in the regulation of highway products such as guardrail terminals include the United States Department of Transportation, the Federal Highway Administration, the National Cooperative Highway Research Program ("NCHRP") and various state highway departments, including the Tennessee Department of Transportation.

18. These organizations establish certain standards and specifications related to the manufacture of highway products, including the ET-Plus guardrail terminals.

19. If any of Trinity's products were found not to be in compliance with these standards and specifications, Trinity (through its officers, employees and agents) knew that Trinity could not sell the products and, further, would be required to re-submit and re-qualify its products for use and installation on state and national highways.

20. Since approximately 2005, Trinity and its officers, employees, and agents have made representations to the primary regulatory and industry authorities that their highway products, including the ET-Plus guardrail terminals, are in substantial compliance with all applicable standards and specifications.

21. Based upon information and belief, the original production version of the ET-Plus guardrail terminal was initially approved by primary regulatory and industry authorities, including the Federal Highway Administration and the National Cooperative Highway Research Program, in or about January of 2000.

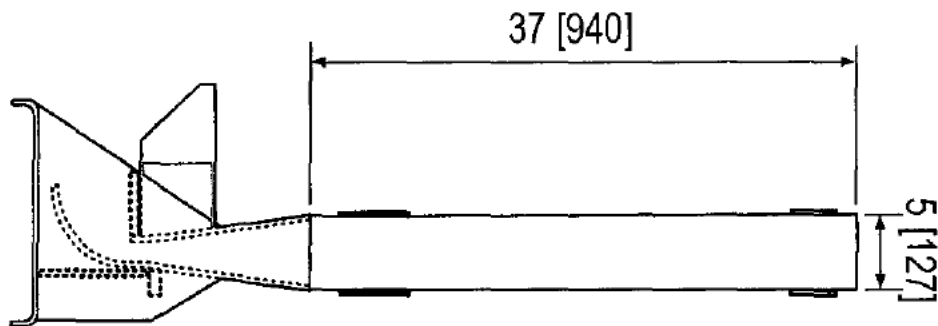
22. This approval was based, in part, on the design specifications provided to these authorities by Trinity and/or its predecessor entity and/or a related Trinity entity.

23. The original production version of the ET-Plus guardrail terminal included an extruder head that differed from the head used in a previous design, the ET-2000, in the size and shape of its face plate and in the omission or reduction of several of its non-structural components.

24. The original production of the ET-Plus guardrail terminal was produced by Trinity and/or Trinity's predecessor entity and/or a related Trinity entity from about 1999 until approximately 2004.

25. The original production of the ET-Plus guardrail terminal had four basic sections: an impact head, deflector, extruder throat and feeder chute.

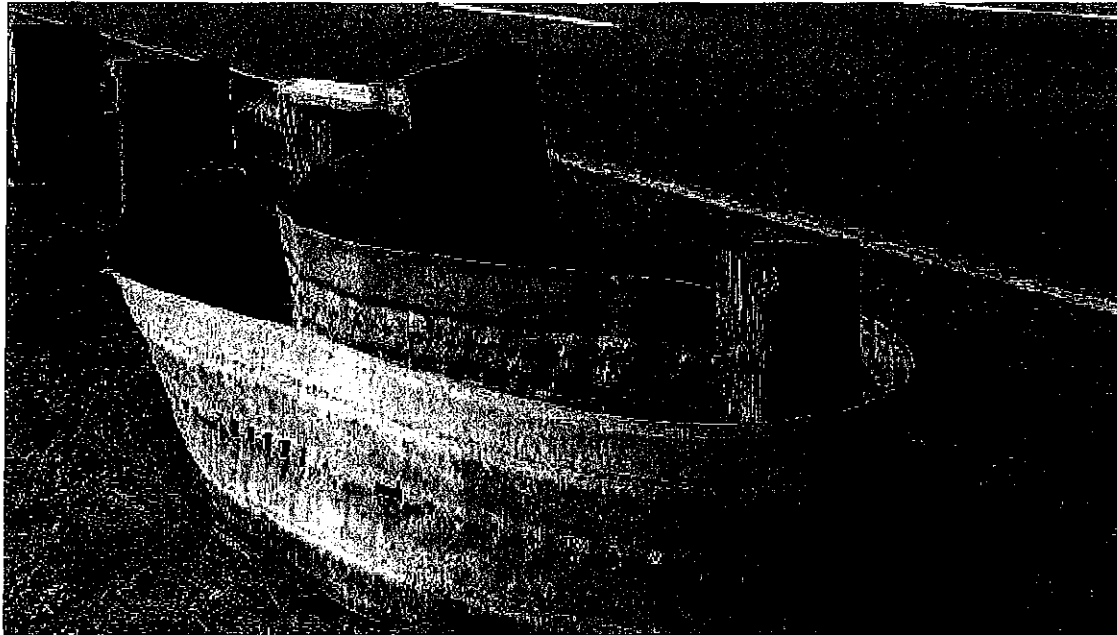
26. The feeder chute of the original ET-Plus production had a width of 5 inches and a length of 37 inches as is generally depicted below:



27. Based upon information and belief, the original production of the ET-Plus guardrail terminal met the design specifications created by the Texas Transportation Institute for Trinity Highway and Trinity Industries - the same design specifications that were presented to and approved by primary regulatory and industry authorities, including the Department of Transportation, the Federal Highway Administration, NCHRP and the TN DOT.

28. When impacted, the ET-Plus, as originally designed, created a dynamic compression plume as the terminal moves down the guardrail. The extruder head would plume the guardrail, flatten the guardrail, and deflect the flattened guardrail.

29. The original production of the ET-Plus was able to handle a dynamic compression plume. Based upon information and belief, when the original version of the ET-Plus was impacted, it generally worked as designed – i.e., the guardrail absorbed the impact as is generally depicted below:



30. In approximately 2004, Trinity modified the ET-PLUS guardrail terminal. In essence, the version of the ET-Plus guardrail terminal manufactured, distributed, marketed and sold after 2004, including at all times relevant to this case, is materially different than the original production of the ET-Plus guardrail terminal.

31. The post-2004 production version of the ET-Plus guardrail terminal is materially different than the design drawings and specifications created for the original ET-Plus by the Texas Transportation Institute / Texas A&M.

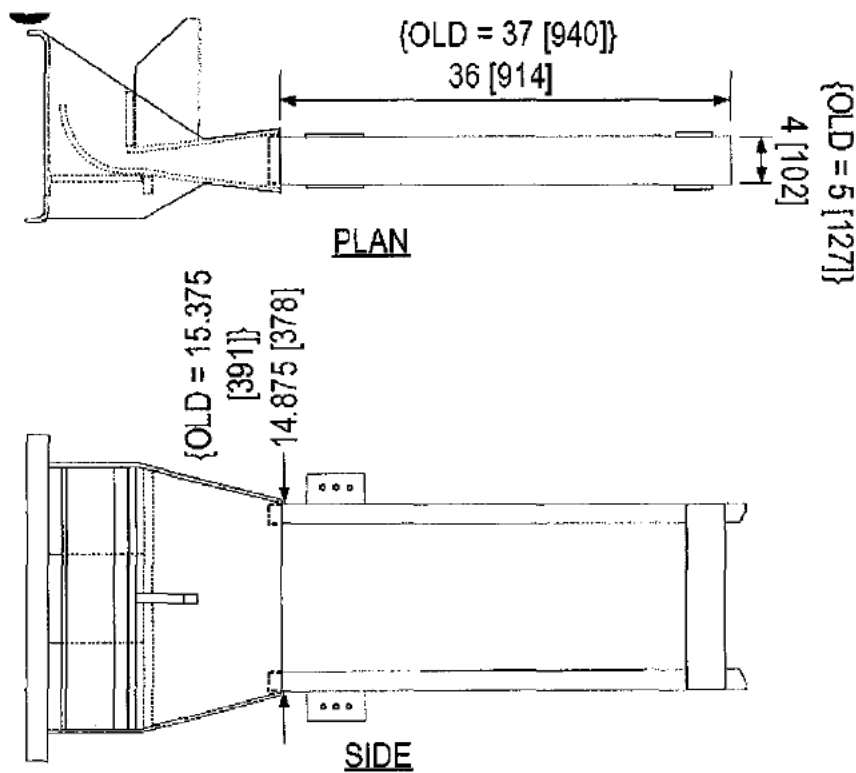
32. The post-2004 production version of the ET-Plus guardrail terminal is materially different than the design drawings and specifications that were presented (by Trinity and/or Trinity's officers, employees and/or agents) to and approved by primary regulatory and industry authorities, including the Department of Transportation, the Federal Highway Administration and the NCHRP.

33. The post-2004 production version of the ET-PLUS guardrail terminal has a feeder chute with a width of 4 inches as opposed to 5 inches.

34. The post-2004 production version of the ET-Plus guardrail terminal has a reduced rail height from 15.375 inches to 14.875 inches.

35. The post-2004 production version of the ET-Plus guardrail terminal has the rails inserted .75 inches deep into the extruder throat; the feeder chute did not intrude into the extruder throat on the original production version of the ET-Plus.

36. In the post-2004 production version, the ET-Plus impact plate, deflector and extruder throat are generally the same as the original production version of the ET-Plus, but the feeder chute is shorter, narrower and intrudes into the extruder throat. These differences are generally depicted in red in the diagram below:



37. In or about October of 2009, after the occurrence of the collision that is the subject of this action, Trinity (through its officers, employees and/or agents) sent another design approval request to the primary and regulatory industry authorities, including the Federal Highway Administration, for the ET-Plus guardrail terminal. Significantly, the version of the ET-Plus submitted at that time once again had a feeder chute with 5 inch wide feeder rails that did not intrude into the extruder head.

38. Accordingly, the version of the ET-Plus which has been submitted for approval to the referenced primary and regulatory industry authorities, both before and after the subject collision, is materially different from the ET-Plus system Trinity has manufactured, distributed, marketed and sold between 2005 and 2009, including the ET-Plus guardrail terminal that was involved in the subject collision on December 17, 2008.

39. The changes made and authorized by Trinity to the version of the ET-Plus guardrail terminal at issue in this case, which was manufactured, distributed, marketed and sold between approximately 2005 and 2009 (the “subject version of the ET-Plus guardrail terminal”) have critically affected the performance of the ET-Plus guardrail terminal when impacted by a vehicle.

40. The subject version of the ET-Plus guardrail terminal, with its production changes including the reduction in width of the feeder rails, height reduction within the extruder throat, and the reduction of its exit gap, causes the guardrail terminal to “throat lock” in the extruder throat during an impact.

41. When the subject version of the ET-Plus guardrail terminal “throat locks,” it is incapable of absorbing an impact.



42. Accordingly, the subject version of the ET-Plus guardrail terminal no longer creates a dynamic compression capable of pluming, flattening and deflecting a guardrail and fails to function as intended; a photograph of an example of such a failure is shown below:



43. Neither the production changes in the subject version of the ET-Plus guardrail terminal, including the reduction in width of the feeder rails, height reduction within the extruder throat, and the reduction of its exit gap, nor the subject version of the ET-Plus guardrail terminal which incorporates these changes have been approved by the primary and regulatory industry authorities referenced above, including but not limited to the Federal Highway Administration and the Tennessee Department of Transportation.

44. Neither the production changes in the subject version of the ET-Plus guardrail terminal, including the reduction in width of the feeder rails, height reduction within the extruder throat, and the reduction of its exit gap, nor the subject version of the ET-Plus guardrail terminal which incorporates these changes have been appropriately tested to determine the safety and

performance of this version of the guardrail terminal, either by Trinity, by third parties, or by any of the referenced primary and regulatory industry authorities.

45. On December 17, 2008, at approximately 7:15 a.m., Ms. Sabrena Carrier was traveling westbound along Highway 394 near its intersection of Earhart Road on her way to work and was driving her 2006 Honda Ridgeline in a safe and prudent manner.

46. Through no fault of her own, Ms. Carrier unforeseeably began to experience dizziness and blurred vision on account of a medical condition.

47. As Ms. Carrier's vehicle was heading down the straight portion of the roadway leading up to the curve just prior to the referenced intersection, on account of said condition, Ms. Carrier was unable to appreciate the curve. Accordingly, Ms. Carrier's vehicle continued going straight, such that the vehicle proceeded off the roadway and directly into the end of the guardrail terminal which had been affixed along side of the edge of the road into the curve just prior to the referenced intersection.

48. The guardrail terminal impacted by the vehicle Ms. Carrier was driving was intended to be manufactured, designed, installed, repaired, and/or maintained in a manner that would provide protection to the motoring public and prevent the end of the guardrail terminal or any portion of the guardrail from entering the passenger compartment of a vehicle with which it came into contact.

49. However, on account of the wrongful and negligent conduct by and/or attributable to each of the Defendants herein and/or their employees and/or agents, a portion of the subject guardrail did in fact penetrate the passenger compartment, striking Ms. Carrier's torso and causing her to suffer serious and fatal injuries.

50. The photograph attached as **Exhibit A** to this Complaint is a true and accurate representation of the manner in which the subject guardrail wrongfully penetrated the passenger compartment of Ms. Carrier's vehicle as is generally described above.

51. The impact of the guardrail against Ms. Carrier's torso and body caused Ms. Carrier to suffer immediate and horrible pain and discomfort, severe damage to her organs, internal bleeding and multiple fractures. Despite being treated at the scene and rushed for emergency treatment to Wellmont-Bristol Regional Hospital and despite being well-attended by the healthcare personnel at the scene and at the hospital, the referenced injuries ultimately were fatal and Ms. Carrier died approximately five hours after the collision.

52. Trinity acted fraudulently, recklessly, and/or with deliberate indifference by engaging in the dangerous, inexplicable, improper and unnecessary wrongful conduct described above, in that they fraudulently, recklessly, and/or with deliberate indifference made changes to the production version of the ET-Plus guardrail terminal between approximately 2005 and 2009 which caused and/or allowed a large number of guardrail terminals, including the guardrail terminal involved in the subject collision, to be manufactured, distributed, marketed and sold and placed into the stream of commerce while being unsafe, defective, unreasonably dangerous, non-conforming, and not approved as required by the primary and regulatory government and industry agencies referenced above.

53. Moreover, Trinity acted fraudulently, recklessly, and/or with deliberate indifference by engaging in the dangerous, inexplicable, improper and unnecessary wrongful conduct described above while at the same time failing to inform purchasers, governmental

entities, contractors, installers, and the public that the referenced production changes had been made.

54. Additionally, Trinity acted fraudulently, recklessly, and/or with deliberate indifference by engaging in the dangerous, inexplicable, improper and unnecessary wrongful conduct described above while at the same time making material misrepresentations to purchasers, governmental entities, contractors, installers, and the public that the referenced production versions of the ET-Plus guardrail terminals were safe for their intended use and were the same and/or substantially the same as the previous versions of the ET-Plus guardrail terminals that had been appropriately tested and approved by the appropriate governmental agencies.

55. Further, Trinity acted fraudulently, recklessly, and/or with deliberate indifference by engaging in the dangerous, inexplicable, improper and unnecessary wrongful conduct described above while at the same time wrongfully concealing from purchasers, governmental entities, contractors, installers, and the public that the referenced production versions of the ET-Plus guardrail terminals had not been appropriately tested or approved by the appropriate governmental agencies.

56. Trinity's fraudulent, reckless, and/or deliberately indifferent wrongful conduct falls within the meaning of the Tennessee Supreme Court's definition of the type of conduct that merits the award of punitive damages in this case as is set forth in Hodges v. S.C. Roof & Co., 833 S.W. 2d 896 (1992).

### **ADDITIONAL BASES FOR RECOVERY AGAINST THE DEFENDANTS**

57. Based upon information and belief, the subject guardrail and its component parts were negligently and wrongfully manufactured, distributed, marketed and sold by Defendant Trinity such that the ET-Plus guardrail terminal involved in the subject collision and its component parts were placed into the stream of commerce by Trinity in a defective and/or unreasonably dangerous condition within the meaning of T.C.A. § 29-28-101, *et. seq.*, the Tennessee Product Liability Act.

58. Further, Trinity wrongfully concealed from purchasers, installers, governmental entities, and/or those responsible for repairing and/or maintaining roadways, including those persons and entities who had those responsibilities with regard to the roadway where the subject collision occurred, that the subject production version of the ET-Plus guardrail terminal was unsafe, defective, unreasonably dangerous, non-conforming, not tested, and not an approved/certified product.

59. Moreover, Trinity wrongfully made misrepresentations to purchasers, installers, governmental entities, and/or those responsible for repairing and/or maintaining roadways, including those persons and entities who had those responsibilities with regard to the roadway where the subject collision occurred, that the subject production version of the ET-Plus guardrail terminal was safe, had been appropriately tested, was approved, and conformed to all applicable government and industry standards, when in fact such representations were not true. These misrepresentations were relied upon by the persons and entities referenced herein; it was foreseeable that such misrepresentations would be relied upon by said persons and entities, and it was known and understood that said persons and entities were performing responsibilities on

behalf of the motoring public, including Sabrena Carrier, when said persons and entities were receiving and relying upon Trinity's misrepresentations in purchasing and installing the referenced production version of the ET-Plus guardrail terminal.

60. Additionally, the subject guardrail and its component parts were manufactured, assembled, sold and/or designed by Defendant Trinity in a manner which breached express and/or implied warranties of merchantability and/or fitness for its intended purpose.

61. Each of the wrongful acts and omissions stated above, which were committed by Trinity and its officers, employees and agents, constituted a proximate cause of the injuries, damages and wrongful death suffered by decedent Sabrena Carrier and, therefore, Plaintiff herein.

62. Plaintiff specifically states that with regard to the fraudulent, reckless, wrongful and deliberately indifferent conduct on the part of Trinity and its officers, employees and agents concerning the changes to the ET-Plus guardrail terminal and the characteristics of the ET-Plus guardrail terminal generally outlined above that were not certified and/or approved by the appropriate state and federal governmental agencies and regulatory authorities and that made the subject version of the ET-Plus guardrail terminal defective and unreasonably dangerous as aforesaid, those matters were wrongfully and improperly concealed by Trinity and its officers, employees and agents such that Plaintiff, in the exercise of reasonable diligence, was unable to discover such matters until on or after November 4, 2011.

63. Based upon information and belief, Defendant Tennessee Guardrail, Inc. ("Tennessee Guardrail") and/or James H. Drew Corporation ("James H. Drew") negligently and wrongfully selected and/or installed the subject guardrail terminal in a manner which caused

and/or contributed to the subject guardrail terminal and/or guardrail components not functioning as intended. Further, Plaintiff specifically alleges that the acts and omissions of the officers, employees and agents of Tennessee Guardrail are attributable to James H. Drew pursuant to the doctrine and principles of the law of agency.

64. The negligence of Tennessee Guardrail and James H. Drew referenced above constituted a proximate cause of the injuries, damages and wrongful death suffered by decedent Sabrena Carrier and, therefore, Plaintiff herein.

65. Based upon information and belief, at all relevant times, agents and employees of the State of Tennessee, while acting in concert with agents and/or employees of Tennessee Guardrail and James H. Drew, and/or while acting as agents of Tennessee Guardrail and James H. Drew, negligently selected and purchased the subject guardrail terminal in a defective and/or unreasonably dangerous condition, such that it posed a danger to motorists such as decedent Sabrena Carrier.

66. Such negligence attributable to the agents and/or employees of the State of Tennessee, while said individuals were acting in concert with agents and/or employees of Tennessee Guardrail and James H. Drew, and/or while said individuals were acting as agents of Tennessee Guardrail and James H. Drew, constituted a proximate cause of the injuries, damages and wrongful death suffered by decedent Sabrena Carrier and, therefore, Plaintiff herein.

67. Plaintiff further cites the following wrongful conduct attributable to the Defendants which constitutes the proximate, legal cause of Plaintiff's damages.

(a) As is generally set forth above, the subject guardrail terminal was manufactured, distributed, marketed and sold in an unreasonably dangerous and/or defective condition within

the meaning of the Tennessee Products Liability Act (T.C.A. Section 29-28-101 *et. seq.*). Accordingly, Trinity is strictly liable to the Plaintiff for the injuries and wrongful death sustained by Ms. Carrier in the subject collision on account of the conduct of Trinity's officers, employees and agents in the manufacture, distribution, marketing and sale of the subject ET-Plus guardrail terminal and the referenced component parts, as such conduct constitutes a proximate, legal cause of Sabrena Carrier's severe injuries and wrongful death and Plaintiff's resulting damages.

(b) Trinity is liable in warranty as aforesaid, as the referenced breaches of express and implied warranties of merchantability and/or fitness for the product's intended purpose constitutes a proximate, legal cause of the decedent's and Plaintiff's injuries and damages.

(c) As set forth above, Trinity wrongfully and/or deliberately concealed from purchasers, installers, roadway designers, and/or those responsible for repairing and/or maintaining the roadway where the subject collision occurred (as well as other roadways) that the subject version of the ET-Plus guardrail terminal (and the ET-Plus guardrail terminal involved in the subject collision) was unsafe, non-conforming, not tested, and not approved/certified. Trinity's conduct in that regard, through its officers, employees and/or agents, constitutes a proximate, legal cause of the decedent's and Plaintiff's damages.

(d) Plaintiff specifically alleges that the subject version of the ET-Plus guardrail terminal (and the ET-Plus guardrail terminal involved in the subject collision) did not comply with federal and state regulations and statutes applicable to such guardrail terminals, that Trinity had a duty to comply with said regulations and statutes, that decedent Sabrena Carrier was within the class of persons that said regulations and statutes were intended by the respective legislative bodies and governmental agencies to protect, that Trinity's violations of said regulations and



statutes constitutes negligence *per se*, and that such negligence was the proximate cause of Plaintiff's injuries; further, Plaintiff specifically alleges that Trinity's manufacture, distribution, marketing and sale of the referenced guardrail terminal when the referenced guardrail did not comply with applicable federal and state regulations and statutes and had not been certified as such renders Trinity liable to Plaintiff in this matter as a matter of law.

(e) Further, all the Defendants herein are liable in negligence for failing to exercise due care in the manufacture, distribution, marketing, testing, analysis, installation, sale, purchase and selection of the subject guardrail terminal, which negligence constitutes a proximate, legal cause of decedent's and Plaintiff's damages. Plaintiff also specifically alleges that the acts and omissions committed by the Defendants and/or Defendants' officers, employees and agents violated the laws and regulations of the State of Tennessee and the United States (including but not limited to the rules and regulations of the Federal Highway Administration), which violations constitute negligence *per se*. Each such wrongful act constitutes a proximate, legal cause of the decedent's and Plaintiff's injuries and damages.

68. Plaintiff further alleges that the wrongful conduct attributable to the Defendants on account of the actions and omissions by the Defendants' officers, employees and/or agents which is generally described herein violates the Tennessee Consumer Protection Act, T.C.A. §§ 47-18-104 (5) and (7) and that those violations also constitute a proximate, legal cause of decedent's and Plaintiff's damages.

69. Plaintiff specifically alleges that the conduct of Trinity as is generally described above was reckless and exhibited a willful disregard for the safety of the motoring public. Such

recklessness and willful disregard for safety constitutes a proximate, legal cause of Plaintiff's damages.

70. Plaintiff specifically alleges that the acts and omissions of Trinity and Trinity's officers, employees and agents described herein were fraudulent, reckless, and/or deliberately indifferent and constitute a proximate, legal cause of the decedent's and Plaintiff's damages, such that said conduct justifies an award of punitive damages in this case.

71. Plaintiff specifically alleges that the version of the ET-Plus guardrail terminal referenced herein and the subject guardrail terminal were not manufactured, marketed, distributed, sold or installed "in accordance with the plans and specifications" of the State of Tennessee within the meaning of T.C.A. § 12-4-503 because said guardrail terminal failed to comply with state and federal regulations and statutes governing such guardrail terminals; as has been stated previously, the failure of the referenced guardrail terminals, including the subject guardrail terminal, to comply with said regulations and statutes and the characteristics of the guardrail terminals outlined herein which were inconsistent with said regulations and statutes were a proximate cause of the subject guardrail terminal forming a spear, penetrating decedent Sabrena Carrier's passenger compartment, violently striking Sabrena Carrier, and causing her to sustain serious and fatal injuries, as well as Plaintiff's injuries and damages as are generally referenced herein.

### **DAMAGES**

72. As a direct and proximate result of the individual and/or joint and several liability of the Defendants, whether their actions or omissions are negligent, negligent *per se*, willful and wanton, and/or grossly negligent, the Plaintiff avers that she is entitled to recover damages from

the Defendants for Sabrena Carrier's pain and suffering, loss of enjoyment of life, medical expenses, funeral expenses, loss of the pecuniary value of the life of Sabrena Carrier, losses in society and companionship, and all other damages and expenses allowed under Tennessee law.

73. Further, as a direct and proximate cause of the wrongful conduct attributable to Trinity as is generally described above, Trinity is liable to Plaintiff for punitive damages in the amount the trier of fact deems appropriate and just.

74. In addition, Plaintiff Sandra Lester respectfully requests restitution and damages on behalf of the decedent's minor son, A.R.C., for the loss of love, society, affection, and companionship of his mother, Sabrena Carrier.

75. In addition, Plaintiff Sandra Lester seeks damages for the loss of love, society, affection, and companionship of her daughter, Sabrena Carrier.

WHEREFORE, Plaintiff sues the Defendants jointly and severally, for compensatory damages in an amount that the trier of fact deems just, not to exceed the sum of eight million dollars (\$8,000,000), as well as punitive damages against Defendant Trinity in the amount the trier of fact deems appropriate and just, not to exceed the greater of: (a) five percent (5%) of the gross revenue of Trinity and/or its related entities which manufactured, distributed, marketed and/or sold the subject version of the ET-Plus guardrail terminal during the relevant time period (2005 through 2009); or (b) five times the amount awarded by the jury for compensatory damages in this case. Further, Plaintiff moves for and requests that all costs of the Court and all discretionary costs, including but not limited to all expert fees, court reporter fees, exhibit expenses, deposition expenses, any other litigation expenses, and any and all other costs allowable by statute, common law, and/or pursuant to Rule 54 of the Tennessee Rules of Civil

Procedure, be taxed to the Defendants immediately upon entry of any judgment in this cause; Plaintiff moves for and requests all pre-judgment interest and post-judgment interest allowable by common law or statute as part of her relief requested herein; Plaintiff requests that a jury be impaneled to hear this cause; and Plaintiff requests such other, further relief as this Honorable Court deems appropriate.

Respectfully submitted this 28th day of September, 2012.

SANDRA LESTER, as mother and personal representative / administratrix of the Estate of Decedent SABRENA CARRIER, representative and grandmother of A.R.C., next of kin, beneficiary and minor son of Sabrena Carrier, Plaintiff,

By:

  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing has been served this 28<sup>th</sup> day of September, 2012, upon the parties in interest herein by first-class mail as follows:

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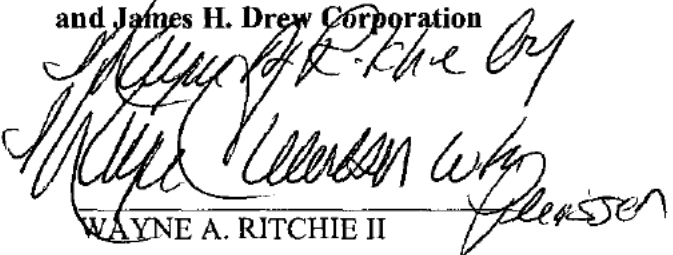
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# **EXHIBIT A**

