

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

CHARLES W. PIKE,)
)
 Plaintiff,) Case No. 5:12-cv-00146-Oc-99TJC-PRL
v.)
)
 TRINITY INDUSTRIES, INC.,)
 a Delaware corporation, and)
 TRINITY INDUSTRIES)
 PRODUCTS, LLC)
 a Delaware limited liability company,)
)
 Defendants.)
_____)

**DEFENDANT, TRINITY INDUSTRIES, INC.'S, ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant, TRINITY INDUSTRIES, INC., (hereinafter "Trinity Industries"), by its counsel, hereby responds to Plaintiff's Amended Complaint as follows:

1. Trinity Industries admits for jurisdictional purposes that the matter in controversy exceeds the jurisdictional limits of this Court, and that diversity of citizenship exists between the current parties to this action and is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Plaintiff's Amended Complaint, and therefore denies same.

2. Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Plaintiff's Amended Complaint, and therefore denies same.

3. Trinity Industries admits that it is a Delaware corporation with its principal place of business at 2525 N. Stemmons Highway, Dallas, Texas 75207, the balance of the allegations contained in Paragraph 3 of the Plaintiff's Amended Complaint are denied.

4. Trinity Industries denies the allegations of Paragraph 4 of the Plaintiff's Amended Complaint.

5. Trinity Industries denies the allegations of Paragraph 5 of the Plaintiff's Amended Complaint.

6. Trinity Industries denies the allegations of Paragraph 6 of the Plaintiff's Amended Complaint.

7. Trinity Industries admits that Trinity Highway Products, LLC (Trinity Highway) is a wholly owned subsidiary of Trinity Industries with its principal place of business located at 2525 N. Stemmons Highway, Dallas, Texas 75207, admits that Trinity Highway is subject to personal jurisdiction in the State of Florida but otherwise denies the remaining allegations contained in Paragraph 7 of the Plaintiff's Amended Complaint.

8. Paragraph 8 of the Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent Paragraph 8 is in any way intended or implied to apply to Trinity Industries, it is admitted that Trinity Highway sells highway guardrail and end treatment systems which have been accepted (or deemed eligible) by the Federal Highway Administration ("FHWA") for use on the national highway system, admits that state departments of transportation, or the applicable highway authority, can specify Trinity Highway Products systems for use on their roadways. In many instances, those products must be accepted by the FHWA for use on the national highway system, or deemed "eligible" and is without knowledge or information sufficient to form a belief as to the truth of the balance of the allegations contained in paragraph 8 of the Plaintiff's Amended Complaint, and therefore denies same.

9. Trinity Industries denies that it designs, manufactures and sells guardrails to cities, counties, and state departments of transportation for roadway and highway safety. It is

admitted that Trinity Highway manufactures and sells highway guardrail end treatment systems which have accepted, or deemed eligible, by the FHWA for use on the national highway system, admits that state departments of transportation, or the applicable highway authority, can specify Trinity Highway's systems for use on their roadways. In many instances, those products must be accepted by the FHWA for use on the national highway system (or deemed eligible). Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the balance of the allegations contained in Paragraph 9 of Plaintiff's Amended Complaint, and therefore denies same.

10. Trinity Industries admits that the accident that Plaintiff complains of appears to have happened in Lake County, Florida and is otherwise without knowledge or information sufficient to form a belief as to the truth of the balance of the allegations contained in Paragraph 10 of the Plaintiff's Amended Complaint, and therefore denies same.

11. Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Plaintiff's Amended Complaint, and therefore denies same.

FACTUAL ALLIGATIONS

12. Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Plaintiff's Amended Complaint, and therefore denies same.

13. Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Plaintiff's Amended Complaint, and therefore denies same.

14. Trinity Industries admits that the Texas A&M 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 otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Plaintiff's Amended Complaint, and therefore denies same.

15. Trinity Industries admits that the FHWA, United States Department of Transportation (USDOT), utilizing criteria established by the National Cooperative Highway Research Program ("NCHRP"), which has become a federal standard, accepts (or "deems eligible") roadside devices, crash tested pursuant to the NCHRP 350 or 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 (or deemed eligible) by FHWA pursuant to the NCHRP Report 350 (or MASH, where applicable) criteria when the state road department constructs and repairs roads and bridges with federal funds and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Plaintiff's Amended Complaint, and therefore denies same.

16. Trinity Industries admits FHWA, USDOT, in utilizing criteria established by the National Cooperative Highway Research Program ("NCHRP"), which has become a federal standard, accepts (or "deems eligible") roadside devices, crash tested pursuant to the NCHRP 350 or MASH criteria, for use along and on roads and bridges built with federal funds, admits that state highway departments are required to use highway products accepted by FHWA pursuant to NCHRP Report 350 (or MASH, where applicable) criteria when the state road department constructs and repairs roads and bridges with federal funds. Trinity Industries specifically denies that it manufactures any such products, including the ET-Plus guardrail end

terminals. Trinity Industries is without knowledge as to the balance of the allegations contained in Paragraph 16 of Plaintiff's Amended Complaint and the same are therefore denied.

17. Trinity Industries admits FHWA, USDOT, in utilizing criteria established by the National Cooperative Highway Research Program ("NCHRP"), which has become a federal standard, accepts (or "deems eligible") roadside devices, crash tested pursuant to the NCHRP 350 (or MASH where applicable) 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. Trinity Industries specifically denies that it manufactures and sells any such products, including the ET-Plus guardrail end terminals. Trinity Industries is without knowledge as to the balance of the allegations contained in Paragraph 17 of Plaintiff's Amended Complaint and the same are therefore denied.

18. Trinity Industries specifically denies that it designs, manufactures and sells any such products, including the ET-Plus guardrail end terminals. Trinity Industries admits that Trinity Highway's 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, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the balance of the allegations contained in Paragraph 18 of Plaintiff's Amended Complaint and therefore denies same.

19. Trinity Industries 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 Highway and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiff's Amended Complaint and therefore denies same.

20. Trinity Industries 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 Highway and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiff's Amended Complaint, and therefore denies same.

21. Trinity Industries 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 Highway and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiff's Amended Complaint, and therefore denies same.

22. At all times relevant hereto, Trinity Industries admits that Trinity Highway products have been accepted (or deemed eligible) by FHWA for use along 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 and otherwise is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 22 of the Plaintiff's Amended Complaint, and therefore denies same.

23. At all times relevant hereto, Trinity Industries admits that Trinity Highway products have been accepted (or deemed eligible) by FHWA for use along 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 and otherwise is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 23 of the Plaintiff's Amended Complaint, and therefore denies same.

24. At all times relevant hereto, Trinity Industries admits that Trinity Highway products have been accepted (or deemed eligible) by FHWA for use along 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 and otherwise is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 24 of the Plaintiff's Amended Complaint, and therefore denies same.

25. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 25.

26. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero

degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 26.

27. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 27.

28. At all times relevant hereto, Trinity Industries admits that Trinity Highway products have been accepted (or deemed eligible) by FHWA for use along 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 and otherwise is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 28 of the Plaintiff's Amended Complaint, and therefore denies same.

29. At all times relevant hereto, Trinity Industries admits that Trinity Highway products have been accepted (or deemed eligible) by FHWA for use along 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 and otherwise is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 29 of the Plaintiff's Amended Complaint, and therefore denies same.

30. At all times relevant hereto, Trinity Industries admits that Trinity Highway products have been accepted (or deemed eligible) by FHWA for use along 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 and otherwise is without knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 30 of the Plaintiff's Amended Complaint, and therefore denies same.

31. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 31.

32. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 32.

33. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 33.

34. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on

TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 34.

35. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 35.

36. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 36.

37. Trinity Industries admits that in February 2003, TTI suggested to Trinity that performance of the ET-Plus extruder head could be enhanced by reducing the guide channels that guide the extruder head down the installed run of W-Beam guardrail, when impacted at zero degrees, end on in both the lateral and vertical directions. Trinity accepted the suggestion of TTI and in March 2003 continued discussions with TTI as to the idea. Discussions continued on TTI's idea and by May 2005, Trinity Highway, at the direction of TTI, manufactured an ET-Plus extruder head with a four (4) inch dimension guide channel. TTI accepted the head and included it as part of the crash testing done in the ET-31 crash test performed during the last week of May, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 37.

38. Trinity Highway admits that TTI performed an NCHRP 350, TL-3 crash test on the ET-31 and that TTI compiled a crash test report on the performance of the ET-Plus during the May 2005 testing. In compiling the ET-31 crash test report, TTI apparently inadvertently omitted a detailed drawing of the ET-Plus extruder head that was part of the testing. However, TTI has confirmed to the FHWA that the ET-Plus extruder head tested in May 2005 did incorporate a four (4) inch guide channel 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. On October 11, 2012, the FHWA confirmed that on February 14, 2012, individuals from Trinity Highway as well as Dr. Roger Bligh of TTI met with the FHWA and confirmed that four (4) inch guide channels were attached to the ET-Plus extruder head that was crash tested at TTI in May 2005; that TTI confirmed this through Dr. Bligh; that Trinity Highway submitted documentation revealing the enhancements to the ET-Plus, including the reduction of the guide channel width from five (5) inches to four (4) inches in 2005. The FHWA determined that the ET-Plus end

terminal with the four (4) inch guide channel attached to the extruder head is eligible for reimbursement under the Federal-Aid Highway Program under FHWA letter CC-94 of September 2, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 38.

39. Trinity Industries specifically denies that it sold any ET-Plus systems. Trinity Highway admits that TTI performed an NCHRP 350, TL-3 crash test on the ET-31 and that TTI compiled a crash test report on the performance of the ET-Plus during the May 2005 testing. In compiling the ET-31 crash test report, TTI apparently inadvertently omitted a detailed drawing of the ET-Plus extruder head that was part of the testing. However, TTI has confirmed to the FHWA that the ET-Plus extruder head tested in May 2005 did incorporate a four (4) inch guide channel 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. On October 11, 2012, the FHWA confirmed that on February 14, 2012, individuals from Trinity Highway as well as Dr. Roger Bligh of TTI met with the FHWA and confirmed that four (4) inch guide channels were attached to the ET-Plus extruder head that was crash tested at TTI in May 2005; that TTI confirmed this through Dr. Bligh; that Trinity Highway submitted documentation revealing the enhancements to the ET-Plus, including the reduction of the guide channel width from five (5) inches to four (4) inches in 2005. The FHWA determined that the ET-Plus end terminal with the four (4) inch guide channel attached to the extruder head is eligible for reimbursement under the Federal-Aid Highway Program under FHWA letter CC-94 of September 2, 2005. Trinity Highway denies the balance of the allegations contained in paragraph 39.

40. Trinity Industries denies the allegations contained in Paragraph 40 of Plaintiff's Amended Complaint.

41. Trinity Industries denies the allegations contained in Paragraph 41 of Plaintiff's Amended Complaint.

42. Trinity Industries denies the allegations contained in Paragraph 42 of Plaintiff's Amended Complaint.

43. Trinity Industries denies the allegations contained in Paragraph 43 of Plaintiff's Amended Complaint.

44. Trinity Industries specifically denies that it sells such guardrail end terminals. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of Plaintiff's Amended Complaint, and therefore denies same.

45. Trinity Industries specifically denies that it designs the SRT-350 6 Post. Trinity Industries admits that pursuant to the design and development of TTI, which is the intellectual property of the Texas A&M University System, Trinity Highway has a license to and does manufacture a singularly unique cable anchor bracket for its ET-Plus end treatment system that is incompatible with any other highway roadside device and which only fits with the ET-Plus end treatment system technology as designed and developed by TTI, and otherwise is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of Plaintiff's Amended Complaint, and therefore denies same.

46. Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of Plaintiff's Amended Complaint and the same are therefore denied.

47. Trinity Industries is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of Plaintiff's Amended Complaint and the same are therefore denied.

48. Trinity Industries specifically denies that it sells such guardrail end terminals. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of Plaintiff's Amended Complaint, and therefore denies same.

49. Trinity Industries specifically denies that it sells such guardrail end terminals. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national

highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of Plaintiff's Amended Complaint, and therefore denies same.

50. Trinity Industries admits that on or about October 29, 2010, it understands that Plaintiff was involved in a motor vehicle accident at the intersection of State Road 33 and Groveland Airport Road in Lake County, Florida, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of the Plaintiff's Amended Complaint, and therefore denies same.

51. Trinity Industries denies that there was an ET-Plus end terminal system assembled at the intersection of State Road 33 and Groveland Airport Road on October 29, 2010, denies that the truck being driven by Leighton Kish collided with an ET-Plus end terminal system and otherwise is without knowledge as to the allegations contained in Paragraph 51 of the Plaintiff's Amended Complaint, and therefore denies same.

52. Trinity Industries admits that on October 29, 2010 it understands that Plaintiff was involved in a motor vehicle accident at the intersection of State Road 33 and Groveland Airport Road in Lake County, Florida, otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of the Plaintiff's Amended Complaint, and therefore denies same.

53. Trinity Industries specifically denies that there was an ET-Plus end treatment system assembled at the intersection of State Road 33 and Groveland Airport Road on October 29, 2010 and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of Plaintiff's Amended Complaint and therefore denies same.

54. Trinity Industries specifically denies that it sells such guardrail end terminals. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of Plaintiff's Amended Complaint, and therefore denies same.

55. Trinity Industries admits that on October 29, 2010 it understands that Plaintiff was involved in a motor vehicle accident at the intersection of State Road 33 and Groveland Airport Road in Lake County, Florida and admits that it understands that Plaintiff's leg was traumatically injured in that accident, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Plaintiff's Amended Complaint.

56. Trinity Industries denies the allegations contained in Paragraph 56 of Plaintiff's Amended Complaint.

COUNT I
NEGLIGENCE OF TRINITY INDUSTRIES, INC. – DESIGN DEFECT

57. In response to Paragraph 57, Trinity Industries realleges its responses to Paragraphs 1-44, 46-47, 50-53 and 55-56.

58. Trinity Industries denies the allegations of Paragraph 58 of Plaintiff's Amended Complaint.

59. Trinity Industries denies the allegations of Paragraph 59 of Plaintiff's Amended Complaint, including all subparts.

60. Trinity Industries denies the allegations of Paragraph 60 of Plaintiff's Amended Complaint.

COUNT II
NEGLIGENCE OF TRINITY HIGHWAY PRODUCTS – DESIGN DEFECT

61. In response to Paragraph 61, Trinity Industries realleges its responses to Paragraphs 1-44, 46-47, 50-53 and 55-56.

62. Paragraph 62 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 62 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that at all times relevant hereto, Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the use along and on roads and bridges built with federal funds, admits that state highway developments required to use roadside devices accepted by FHWA pursuant to NCHRP Report 350 (or MASH where appropriate) criteria and the state road department construction repairs roads and bridges with federal funds and otherwise denies the balance of the allegations contained in Paragraph 62 of the Plaintiff's Amended Complaint.

63. Paragraph 63 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 63 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 63, including all subparts, are denied.

64. Paragraph 64 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 64 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 64 are denied.

COUNT III

GROSS NEGLIGENCE OF TRINITY INDUSTRIES, INC.

65. In response to Paragraph 65 Trinity Industries realleges its responses to Paragraphs 1-44, 46-47, 50-53 and 55-56 as if fully set forth herein.

66. Trinity Industries denies the allegations contained in Paragraph 66 of Plaintiff's Amended Complaint.

67. Trinity Industries denies the allegations contained in Paragraph 67 of Plaintiff's Amended Complaint, including all subparts.

68. Trinity Industries denies the allegations contained in Paragraph 68 of Plaintiff's Amended Complaint.

69. Trinity Industries denies the allegations contained in Paragraph 69 of Plaintiff's Amended Complaint.

COUNT IV
GROSS NEGLIGENCE OF TRINITY HIGHWAY PRODUCTS

70. In response to Paragraph 70, Trinity Industries realleges its responses to Paragraphs 1-44, 46-47 and 55-56 as if fully set forth herein.

71. Paragraph 71 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 71 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that at all times relevant hereto Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the 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 (or MASH, where appropriate), criteria when state road department construction repairs roads and bridges with federal funds and otherwise denies the balance of the allegations contained in Paragraph 71 of the Plaintiff's Amended Complaint.

72. Paragraph 72 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 72 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 72 are denied.

73. Paragraph 73 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 73 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 73 are denied.

74. Paragraph 74 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 74 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 74 are denied.

COUNT V
STRICT LIABILITY OF TRINITY INDUSTRIES, INC. – DESIGN DEFECT

75. In response to Paragraph 75, Trinity Industries realleges its responses to Paragraphs 1-44, 46-47, 50-53 and 55-56 as if fully set forth herein.

76. Trinity Industries denies the allegations contained in Paragraph 76 of the Plaintiff's Amended Complaint.

77. Trinity Industries denies the allegations of Paragraph 77 of the Plaintiff's Amended Complaint, including all subparts.

78. Trinity Industries denies the allegations contained in Paragraph 78 of the Plaintiff's Amended Complaint.

79. Trinity Industries denies the allegations contained in Paragraph 79 of the Plaintiff's Amended Complaint.

80. Trinity Industries denies the allegations contained in Paragraph 80 of the Plaintiff's Amended Complaint.

COUNT VI

STRICT LIABILITY OF TRINITY HIGHWAY – DESIGN DEFECT

81. In response to Paragraph 81, Trinity Industries realleges its responses to Paragraphs 1-44, 46-47, 50-53 and 55-56 as if fully set forth herein.

82. Paragraph 82 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 82 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway Products, admits that Trinity Highway Products have been accepted (or deemed eligible) by FHWA for the 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 82 of the Plaintiff's Amended Complaint.

83. Paragraph 83 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 83 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 83 are denied.

84. Paragraph 84 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 84 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 84 are denied.

85. Paragraph 85 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 85 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 85 are denied.

86. Paragraph 86 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 86 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 86 are denied.

COUNT VII
NEGLIGENCE OF TRINITY HIGHWAY PRODUCTS – FAILURE TO WARN

87. In response to Paragraph 87, Trinity Industries realleges its responses to Paragraphs 1-52 and 54-56 as if fully set forth herein.

88. Paragraph 88 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 88 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway, admits that Trinity Highway Products have been accepted (or deemed eligible) by FHWA for the 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 88 of the Plaintiff's Amended Complaint.

89. Paragraph 89 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 89 is in any way intended or implied to apply to Trinity

Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway, admits that Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 89 of the Plaintiff's Amended Complaint.

90. Paragraph 90 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 90 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway, admits that Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 90 of the Plaintiff's Amended Complaint.

91. Paragraph 91 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 91 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of Plaintiff's Amended Complaint, and therefore denies same.

92. Paragraph 92 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 92 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway manufactures and sells highway guardrail systems approved by the FHWA, admits that the state departments of transportation can specify Trinity Highway's products as being compliant with the National Cooperative Highway Research Program Report meeting federal highway administration requirements for installation on a national highway system and otherwise is without knowledge or information sufficient to form a belief of the truth of the allegations contained in paragraph 92 of Plaintiff's Amended Complaint.

93. Paragraph 93 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 93 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its

highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of Plaintiff's Amended Complaint, and therefore denies same.

94. Paragraph 94 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 94 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway supplies learned and experienced end users of Trinity Highway's FHWA accepted roadside device products instructions for the assembly of its roadside device products, admits that a failure to follow the instructions for the correct assembly of Trinity Highway roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of the Complaint, and therefore denies same.

95. Paragraph 95 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 95 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the

national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of Plaintiff's Amended Complaint, and therefore denies same.

96. Paragraph 96 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 96 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 96 are denied.

COUNT VIII
STRICT LIABILITY OF TRINITY HIGHWAY PRODUCTS – FAILURE TO WARN

97. In response to Paragraph 97, Trinity Industries realleges its responses to Paragraphs 1-52 and 54-56 as if fully set forth herein.

98. Paragraph 98 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 98 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway Products, admits that Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the use along and on roads and bridges built with federal funds, admits that state highway departments 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 98 of the Plaintiff's Amended Complaint.

99. Paragraph 99 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 99 is in any way intended or implied to apply to Trinity

Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway's products, admits that Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the use along and on roads and bridges built with federal funds, admits that state highway departments 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 99 of the Plaintiff's Amended Complaint.

100. Paragraph 100 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 100 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that TTI designs, develops, tests and owns the intellectual property comprising the ET-Plus guardrail end treatment system, admits that TTI licenses certain of its roadside device intellectual property to Trinity Highway's products, admits that Trinity Highway's products have been accepted (or deemed eligible) by FHWA for the use along and on roads and bridges built with federal funds, admits that state highway departments 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, admits that Trinity Highway has sold FHWA accepted roadside devices to the Florida Department of Transportation (FDOT) and denies the balance of the allegations of Paragraph 100 of the Plaintiff's Amended Complaint.

101. Paragraph 101 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 101 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of Plaintiff's Amended Complaint, and therefore denies same.

102. Paragraph 102 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 102 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway supplies learned and experienced end users of Trinity Highway's FHWA accepted roadside device products instructions for the assembly of its roadside device products, admits that a failure to follow the instructions for the correct assembly of Trinity Highway roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102 of the Complaint, and therefore denies same.

103. Paragraph 103 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 103 is in any way intended or implied to apply to Trinity Industries, Trinity Industries admits that Trinity Highway distributes to learned and experienced

end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of Plaintiff's Amended Complaint, and therefore denies same.

104. Paragraph 104 of Plaintiff's Amended Complaint does not apply to Trinity Industries. To the extent that Paragraph 104 is in any way intended or implied to apply to Trinity Industries, all allegations contained in Paragraph 104 are denied.

COUNT IX
NEGLIGENCE OF TRINITY INDUSTRIES – FAILURE TO WARN

105. In response to Paragraph 105, Trinity Industries realleges its responses to Paragraphs 1-52 and 54-56 as if fully set forth herein.

106. Trinity Industries denies the allegations contained in Paragraph 106 of the Plaintiff's Amended Complaint.

107. Trinity Industries specifically denies that it designs, tests, manufactures or sells parts for use with any guardrails. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or

information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of Plaintiff's Amended Complaint, and therefore denies same.

108. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of Plaintiff's Amended Complaint, and therefore denies same.

109. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 109 of Plaintiff's Amended Complaint, and therefore denies same.

110. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product

for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 of Plaintiff's Amended Complaint, and therefore denies same.

111. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 111 of Plaintiff's Amended Complaint, and therefore denies same.

112. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 112 of Plaintiff's Amended Complaint, and therefore denies same.

113. Trinity Industries denies the allegations contained in Paragraph 113 of the Plaintiff's Amended Complaint.

114. Trinity Industries denies the allegations contained in Paragraph 114 of the Plaintiff's Amended Complaint.

COUNT X
STRICT LIABILITY OF TRINITY INDUSTRIES – FAILURE TO WARN

115. In response to Paragraph 115, Trinity Industries realleges its responses to Paragraphs 1-52 and 54-56 as if fully set forth herein.

116. Trinity Industries denies the allegations contained in Paragraph 116 of the Plaintiff's Amended Complaint.

117. Trinity Industries specifically denies that it designs, tests, manufactures or sells parts for use with any guardrails. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of Plaintiff's Amended Complaint, and therefore denies same.

118. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of Plaintiff's Amended Complaint, and therefore denies same.

119. Trinity Industries admits that Trinity Highway distributes to learned and experienced end users of its FHWA accepted roadside device products, instructions for the assembly of its highway products, admits that a failure to follow the instructions for the correct assembly of the roadside device products may result in the highway product not performing as crash tested in the report submitted to the FHWA for its consideration in accepting the product for use on the national highway system, and otherwise is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 of Plaintiff's Amended Complaint, and therefore denies same.

120. Trinity Industries denies the allegations contained in Paragraph 120 of the Plaintiff's Amended Complaint.

121. Trinity Industries denies the allegations contained in Paragraph 121 of the Plaintiff's Amended Complaint.

122. Trinity Industries denies the allegations contained in Paragraph 122 of the Plaintiff's Amended Complaint.

AFFIRMATIVE DEFENSES

123. The Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted against Trinity Industries.

124. Trinity Industries alleges that that Plaintiff has failed to join necessary parties.

125. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations and statutes of repose, including but not limited to Sections 95.031 and 95.11, Fla. Stat.

126. Plaintiff's claims are barred by the doctrine of estoppel.

127. Plaintiff's claims are barred by the doctrines of payment, release and accord and satisfaction.

128. Any product manufactured, sold or distributed by Trinity Industries or Trinity Highway was neither defective nor unreasonably dangerous in that it complied, at all relevant times, with all applicable safety standards, including but not limited to regulations and specifications promulgated by the Federal Highway Administration and the Florida Department of Transportation.

129. Trinity Industries claims the benefits of Section 768.81, Fla. Stat.

130. Some or all of Plaintiff's claims are barred by the learned intermediary and/or sophisticated user doctrines. At all relevant times herein, the Florida Department of Transportation (FDOT) was in the position of a sophisticated purchaser and user, fully knowledgeable and informed with respect to the risks and benefits related to the use of the subject guardrail end treatment system.

131. The injuries, damages, and losses alleged in the Plaintiff's Amended Complaint were caused in whole or in part by the comparative negligence of Plaintiff.

132. The injuries, damages, and losses alleged in the Plaintiff's Amended Complaint were caused in whole or in part by the negligence of others, over whom Trinity Industries exercised no control, had no opportunity to anticipate or right to control, and with whom Trinity Industries had no legal relationship by which liability could be attributed to it because of the actions of Plaintiff and/or others, which by comparison was far greater than any conduct alleged as to Trinity Industries. The persons or entities who are or may be negligent and whose negligence caused or contributed to the injuries that Charles W. Pike complains of include, but are not limited to: Florida Department of Transportation (FDOT) and Leighton Kish. FDOT

was negligent in assembling a collection of random parts as an end treatment system which was not accepted by FHWA, which had never been subjected to any crash test for evaluation by the FHWA and which would not conform to NCHRP Report 350 criteria at the intersection of State Road 33 and Groveland Airport Road prior to October 29, 2010, including but not limited to installing a generic bolted cable anchor bracket on an obsolete guardrail panel that had not been accepted for use for fifteen (15) years together with unknown struts, cables, fasteners, posts and blockouts. Leighton Kish operated a Ford F-150 truck negligently so as to leave the roadway at or about the intersection of State Road 33 and Groveland Airport Road, causing Leighton Kish to lose control of the Ford F-150 truck and causing the Ford F-150 truck to strike the collection of unaccepted parts assembled by the FDOT at an angle of impact that no FHWA accepted guardrail end treatment system was designed to respond to within NCHRP Report 350 criteria. Defendant reserves the right to amend this affirmative defense to comply with *Messmer/Fabre*, (*Messmer v Teachers Insurance Co.*, 588 So.2d 610 (Fla. 5th DCA 1992), rev. den., 598 So.2d 77 (Fla. 1992); *Fabre v Marin*, 623 So.2d 1182 (Fla. 1993)) upon continuing discovery. Defendant reserves the right pursuant to *Nash v. Wells Fargo Guard Services, Inc.*, 678 So.2d 1262, 1264 (Fla. 1996), to specifically identify any person or entity that discovery discloses is or may be liable for part or all of Plaintiffs' claims.

133. Plaintiff's alleged loss, damage, injury, harm, expense, diminution, or deprivation alleged, if any, was caused in whole or in part by Plaintiff's failure to exercise reasonable care and diligence to mitigate his alleged damages.

134. Plaintiff's claims are preempted by federal law in that Trinity Industries and Trinity Highway's highway guardrail end treatment systems were researched, tested, developed, manufactured, labeled, 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 NCHRP Report 350 criteria, meeting Federal Highway Administration requirements, for installation on the national highway system.

135. Any causes of action claimed by Plaintiff arising from intrusion of random non-Trinity Industries or Trinity Highway guardrail parts into the passenger cabin of Mr. Kish's Ford F-150 truck on October 29, 2010, that were not manufactured or sold by Trinity Industries, when the vehicle that Plaintiff was a passenger in impacted a random collection of guardrail parts assembled by the FDOT at the intersection of State Road 33 and Groveland Airport Road in Lake County, Florida, that were not accepted by the FHWA pursuant to NCHRP Report 350 criteria are preempted by the doctrine of federal field preemption because there was no FHWA NCHRP Report 350 criteria accepted Trinity Industries or Trinity Highway's end treatment system at that location at that time. The FDOT may not create liability for Trinity Industries by using a Trinity Industries component part in an unaccepted random collection of parts at that intersection at that time as that random collection of guardrail parts did not comply with federal law requiring FHWA NCHRP Report 350 criteria accepted guardrail end treatment systems to be used on highways funded by federal funds.

136. Some or all of Plaintiff's claims are barred by the doctrines concerning unavoidably unsafe products, including, but not limited to, the operation of comments i, j, and k to Section 402A of the Restatement (Second) of Torts and/or barred by the Restatement (Third) of Torts. See *Ellison v. Northwest Engineering Co.*, 521 F.Supp. 199, 202 (S.D. Fla. 1981).

137. Plaintiff's claims are barred in whole or in part by the applicable provisions of the United States Constitution, the Florida 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 Art. I, §4 of the Constitution of the State of Florida because Trinity Highway's commercial speech regarding the marketing of highway guardrail end treatment systems was neither false nor misleading.

138. Any verdict or judgment rendered against Trinity Industries must be reduced by those amounts that have been, or will, with reasonable certainty, replace or indemnify Plaintiff, in whole or in part, for any past or future claimed economic loss, from any collateral source such as insurance, social security, automobile insurance or Florida No-Fault, workers' compensation, or employee benefit programs. See *Goble v. Frohman*, 901 So.2d 830 (Fla. 2005); §768.76, Fla. Stat.

139. The proximate cause of Plaintiff's alleged injuries was a subsequent material modification or alteration of the products at issue, which was not reasonably expected by Trinity Industries. Plaintiff's claims are barred in whole or in part by the provisions of Florida law and/or the corresponding laws of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case.

140. Plaintiff's claims against Trinity Industries are barred because Plaintiff knowingly and voluntarily assumed and/or incurred the risk of injury and Plaintiff's claims are barred or should be reduced under the principles of assumption of risk and/or informed consent. Plaintiff's claims are barred in whole or in part by the provisions of Florida law and/or the corresponding laws of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case.

141. Based on the state of scientific, medical, and technological knowledge existing at the time the highway guardrail end treatment systems were allegedly designed, developed,

manufactured, produced, marketed, assembled, tested, distributed, or sold by Trinity Highway, 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

142. Any injuries or expenses incurred by Plaintiff were not caused by Trinity Industries, but may have been proximately caused, in whole or part, by the unforeseen subsequent material modification or alteration, unintended use, misuse or abuse of the products referenced in Plaintiff's Amended Complaint. Plaintiff's claims are barred in whole or in part by the provisions of Florida law and/or the corresponding laws of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case.

143. In the unlikely event that Trinity Industries is found liable to the Plaintiff, Trinity Industries is entitled to a credit or offset for any and all sums that the Plaintiff has received or may hereafter receive by way of any and all settlements arising from Plaintiff's claims and causes of action including but not limited to automobile insurance and Florida's No-Fault statutory provisions. Trinity Industries alternatively asserts its right to a proportionate reduction of any damages based on comparative fault or the percentage of negligence attributable to Plaintiff or to any settling tortfeasor under Florida law and/or the laws of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case.

144. Plaintiff's claims are barred by the limitations and defenses set out in the §768.1257, Fla. Stat. and/or the corresponding laws of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case, including, but not limited to, the state-of-the-art defense defined in Florida law. Trinity Industries incorporates by reference all defenses and/or limitations set forth or referenced in the Florida law and the corresponding

laws of any other State or Commonwealth of the United States whose laws might be deemed controlling in this case.

145. Plaintiff's claim for punitive damages violates, and it is therefore barred by, the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States of America on grounds including the following:

(a) It is a violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution to impose punitive damages, which are penal in nature, against a civil defendant upon the plaintiff satisfying a burden of proof which is less than the "beyond a reasonable doubt" burden of proof required in criminal cases;

(b) procedures pursuant to which punitive damages are awarded may result in the award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing, which infringes upon the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution;

(c) the procedures pursuant to which punitive damages are awarded fail to provide a reasonable limit on the amount of the award against defendant, which thereby violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution;

(d) the procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages which thereby violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution;

(e) the procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts, and thus violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

(f) the procedures pursuant to which punitive damages are awarded permit the imposition of punitive damages in excess of the maximum criminal fine for the same or similar conduct, which thereby infringes upon the Due Process Clause of the Fifth and Fourteenth Amendments and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

(g) the procedures pursuant to which punitive damages are awarded permit the imposition of excessive fines in violation of the Eighth Amendment of the United States Constitution;

(h) the award of punitive damages to plaintiff in this action would constitute a deprivation of property without due process of law; and

(i) the procedures pursuant to which punitive damages are awarded permit the imposition of an excessive fine and penalty

146. With respect to Plaintiff's demand for punitive or exemplary damages, Trinity Industries specifically incorporates by reference all standards of limitations regarding the determination and enforceability of punitive damages awards, including but not limited to, those standards of limitation which arose in *BMW of North America v. Gore*, 517 U.S. 559 (1996), *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001), and *State Farm Mutual Automobile Ins. Co. v. Campbell*, 538 U.S. 408 (2003).

147. Trinity Industries hereby gives notice that it intends to rely upon every defense available to it under Fla. Stat. Title XLV, § 768.1256, Government Rules Defense.

148. Trinity Industries hereby gives notice that it intends to claim all benefits and rely upon every defense available to it under Fla. Stat. Title XLV, §§ 768.72, 768.725 and 768.73 regarding punitive damage claims.

149. Trinity Industries states that in the event an award for future economic loss is in excess of \$250,000.00, this Defendant is entitled to seek payment as provided by Section 768.78, Fla. Stat.

150. Trinity Industries alleges that Plaintiff's damages are subject to being apportioned by and between parties, non-parties, pre-existing conditions, idiosyncratic reactions and acts of nature.

151. If Plaintiff has agreed not to sue, or have compromised or otherwise reached some arrangement with any other parties, then such is a complete bar to this action as satisfaction thereof. In the alternative, should the Court find this not to be a bar, the jury should be advised of Plaintiff's agreements, and any monetary amounts involved, so that Trinity Industries can be credited with, or receive an offset for, said amounts Plaintiff has already received, so as to prevent a double recovery by Plaintiff.

152. The Plaintiff's Amended Complaint is barred in whole or in part because the subject accident was unforeseeable and unavoidable.

153. Plaintiff's claims are barred in that the product in question was substantially altered after it left possession, custody or control of the manufacturer and, on the date of the alleged injury, said product was not in substantially the same condition as it was when it left the manufacturer.

154. Plaintiff cannot recover against Trinity Industries due to superseding or intervening causes, on any claim asserted based on any alleged negligence or other conduct based on its part or any alleged defect in the product in question, because neither Trinity Industries nor any conduct by it or products manufactured by it was the proximate cause of the Plaintiff's alleged injuries.

155. If it is determined that Plaintiff was exposed to any of Trinity Industries' products or components sold to or used on behalf of the United States of America, the State of Florida or any other state, then Trinity Industries is entitled to any sovereign or governmental immunity available to the United States or to the State of Florida or such other state.

156. If the damages complained of in Plaintiff's Amended Complaint arose from the consumption of alcohol or drugs, Plaintiff's claims are barred by Section 768.36, Fla. Stat.

WHEREFORE, Defendant Trinity Industries, Inc. requests that Plaintiff's Amended Complaint, and all claims alleged therein, be dismissed with prejudice, that Trinity Industries, Inc. be awarded the costs, disbursements, and attorneys' fees in the defense of this action, demands a jury trial and that Trinity Industries, Inc. be granted any other relief to which it may be entitled.

CERTIFICATE OF SERVICE

I HERBY CERTIFY that on November 7, 2012 I electronically filed the foregoing with the Clerk of the Middle District of Florida by using the CM/ECF system which will send a notice of electronic filing to **THEODORE J. LEOPOLD, ESQUIRE**, 2925 PGA Boulevard, Suite 200, Palm Beach Gardens, Florida 33410 and U. S. Mail to **RUSSELL C. BROWN, ESQUIRE**, P. O. Box 1780, Henderson, TX, 75653-1780.

/s/ Francis E. Pierce, III
FRANCIS E. PIERCE, III
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And

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P. O. Box 1780
Henderson, TX 75653-1780

ATTORNEYS FOR TRINITY
INDUSTRIES, INC.

4819-0526-6705, v. 1

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

CASE NO: 5:12-cv-00146-TJC-PRL

CHARLES W. PIKE,

Plaintiff,

vs.

TRINITY INDUSTRIES, INC., a Delaware
corporation, and TRINITY HIGHWAY PRODUCTS, a
Delaware limited liability company,

Defendants.

_____ /

AMENDED COMPLAINT

COMES NOW, the Plaintiff, CHARLES PIKE, by and through his undersigned counsel, and sues Defendants TRINITY INDUSTRIES, INC., a Delaware corporation, and TRINITY HIGHWAY PRODUCTS, LLC, a Delaware limited liability company, and states the following:

JURISDICTIONAL ALLEGATIONS

1. The jurisdiction of this Court is based upon diversity of citizenship pursuant to 28 U.S.C. §1332. The matter in controversy, exclusive of interest and costs, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00).
2. Plaintiff Charles Pike is a resident of Lake County, Florida, over eighteen years of age, and is otherwise *sui juris*.
3. Defendant Trinity Industries, Inc., (hereinafter “TRINITY INDUSTRIES”) is a Delaware corporation with its principal place of business located at 2525 N. Stemmons Freeway, Dallas, Texas 75207. TRINITY INDUSTRIES regularly conducts business in Florida. TRINITY

INDUSTRIES is subject to personal jurisdiction in the state of Florida because it is engaged in substantial and not isolated activity within the state of Florida; and Plaintiff's action arises from TRINITY INDUSTRIES operating, conducting, engaging in, or carrying on a business in Florida or having an office or agency in Florida; committing a tortious act within Florida; or causing injury to persons or property within Florida arising out of an act or omission by TRINITY INDUSTRIES while, at or about the time of the injury, TRINITY INDUSTRIES was engaged in solicitation or service activities within Florida or products, materials, or things processed, serviced, or manufactured by TRINITY INDUSTRIES were used or consumed within Florida in the ordinary course of commerce, trade, or use.

4. TRINITY INDUSTRIES is in the business of manufacturing guardrail systems installed in Florida and throughout the United States. TRINITY INDUSTRIES uses the registered trademark name "ET-Plus" to identify its unique and patented highway guardrail end terminals. Through approximately 2004, the ET-Plus was a federally accepted and energy absorbing end terminal. The ET-Plus can be used at the termination of flexible barriers on the shoulder of a roadway or in the median. TRINITY INDUSTRIES holds the exclusive license to the patented ET-Plus from the Texas A&M University system. Texas A&M has assigned certain patents relating to the ET-Plus to TRINITY INDUSTRIES.

5. TRINITY INDUSTRIES sells the ET-Plus end terminal to State Department of Transportations and road contractors and installers approved and specified by the appropriate highway authority to install and maintain guardrails on the Federal and state highways.

6. TRINITY INDUSTRIES designs, manufactures and sells guardrails to cities, counties, and state departments of transportation for roadway and highway safety.

7. Defendant, Trinity Highway Products, LLC, (hereinafter “TRINITY HIGHWAY”) is a Delaware limited liability company with its principal place of business located at 2525 N. Stemmons Freeway, Dallas, Texas, 75207 and a wholly owned subsidiary of TRINITY INDUSTRIES. TRINITY HIGHWAY regularly conducts business Florida. TRINITY HIGHWAY is subject to personal jurisdiction in the state of Florida because it is engaged in substantial and not isolated activity within the state of Florida; and Plaintiff’s action arises from TRINITY HIGHWAY operating, conducting, engaging in, or carrying on a business in Florida or having an office or agency in Florida; committing a tortious act within Florida; or causing injury to persons or property within Florida arising out of an act or omission by TRINITY HIGHWAY while, at or about the time of the injury, TRINITY HIGHWAY was engaged in solicitation or service activities within Florida or products, materials, or things processed, serviced, or manufactured by TRINITY HIGHWAY were used or consumed within Florida in the ordinary course of commerce, trade, or use.

8. TRINITY HIGHWAY sells the ET-Plus end terminal to State Department of Transportations and road contractors and installers approved and specified by the appropriate highway authority to install and maintain guardrails on the Federal and State Highway.

9. TRINITY INDUSTRIES and TRINITY HIGHWAY designs, manufactures and sells guardrails to cities, counties, and state departments of transportation for roadway and highway safety.

10. Venue of this action properly lies in the United States District Court for the Middle District of Florida under 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff’s claim occurred in or near Lake County, Florida.

11. All conditions precedent to the filing of the action have been met or waived.

FACTUAL ALLEGATIONS

12. Florida Department of Transportation and its agents, subcontractors, and/or employees, were involved in a construction project (FPN: 417164-1-52-01) on SR33 in the area near the intersection of SR33 and Groveland Airport Road in Lake County, Florida.

13. FPN: 417164-1-52-01 included the installation of an ET-Plus guardrail end terminal that was manufactured, and sold by the Trinity Defendants.

14. The ET-Plus guardrail end terminals were to be designed and tested by Texas A & M University.

15. The primary regulatory and industry authorities involved in the regulation of highway products include the United States Department of Transportation, the Federal Highway Administration, the National Cooperative Highway Research Program (“NCHRP”) and various state highway departments.

16. These organizations establish certain standards and specifications related to the manufacture of TRINITY HIGHWAY and TRINITY INDUSTRIES’s products, including the ET-Plus guardrail end terminals. .

17. If TRINITY HIGHWAY and TRINITY INDUSTRIES’s products were not found to be in compliance with these standards and specifications, they would be required to re-qualify their products for installation on state and national highways.

18. Since approximately 2005, TRINITY HIGHWAY and TRINITY INDUSTRIES have led these primary regulatory and industry authorities to believe that their highway products,

including the ET-Plus guardrail end terminals are in substantial compliance with all applicable standards and specifications.

19. The design drawings and specifications for the ET-Plus and ET-2000 guardrail end terminals were created for TRINITY INDUSTRIES by the Texas Transportation Institute of Texas A & M University.

20. Pursuant to the ET-Plus design drawings, TRINITY INDUSTRIES is the author and designer of the ET-Plus and ET-2000 guardrails.

21. TRINITY INDUSTRIES is credited as the designer of the ET-Plus guardrail end terminals on its design specification documents.

22. The ET-Plus guardrail end terminal was approved by primary regulatory and industry authorities, including the Department of Transportation, the Federal Highway Administration, and the National Cooperative Highway Research Program in or about January of 2000.

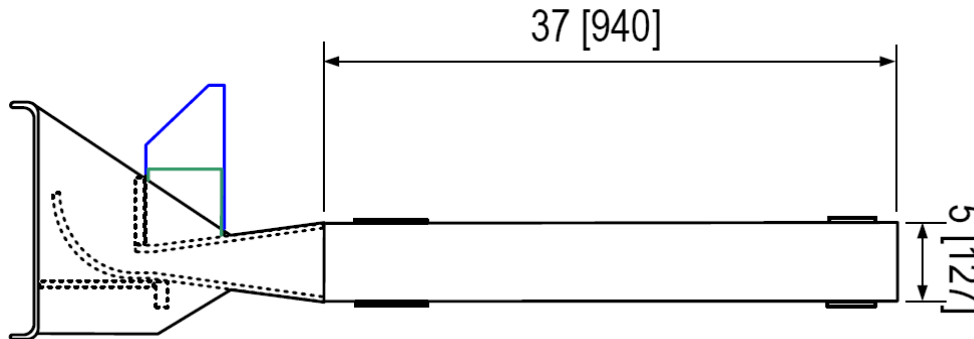
23. This approval was based, in part, on the design specifications provided to these authorities by Texas Transportation Institute and/or TRINITY INDUSTRIES.

24. The ET-Plus guardrail end terminal included a modified extruder head. The new extruder head differed from the ET-2000 head in the size and shape of its face plate and in the omission or reduction of several of its non-structural components.

25. The original production of the ET-Plus guardrail end terminal was produced by TRINITY and TRINITY INDUSTRIES from about 1999 to about 2005.

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

27. The feeder chute of the original ET-Plus production had a width of 5 inches and a length of 37 inches as shown below:



28. The original production of the ET-Plus guardrail end 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 and the NCHRP.

29. When impacted, the ET-Plus, as originally designed, creates a dynamic compression plume as the terminal moves down the guardrail. The extruder head plumes the guardrail, flattens the guardrail, and deflects the flattened guardrail.

30. The original production of the ET-Plus was able to handle a dynamic compression plume. When impacted, it generally worked as designed – i.e., the guardrail absorbed the impact as shown below:



31. In about 2005, TRINITY HIGHWAY and TRINITY INDUSTRIES changed the design and production of the ET-PLUS guardrail end terminal. In essence, the current design and production of the ET-Plus guardrail end terminal is different than the original production of the ET-Plus guardrail end terminal.

32. The current production of the ET-Plus guardrail end terminal is different than the design drawings and specifications created for TRINITY INDUSTRIES by the Texas Transportation Institute.

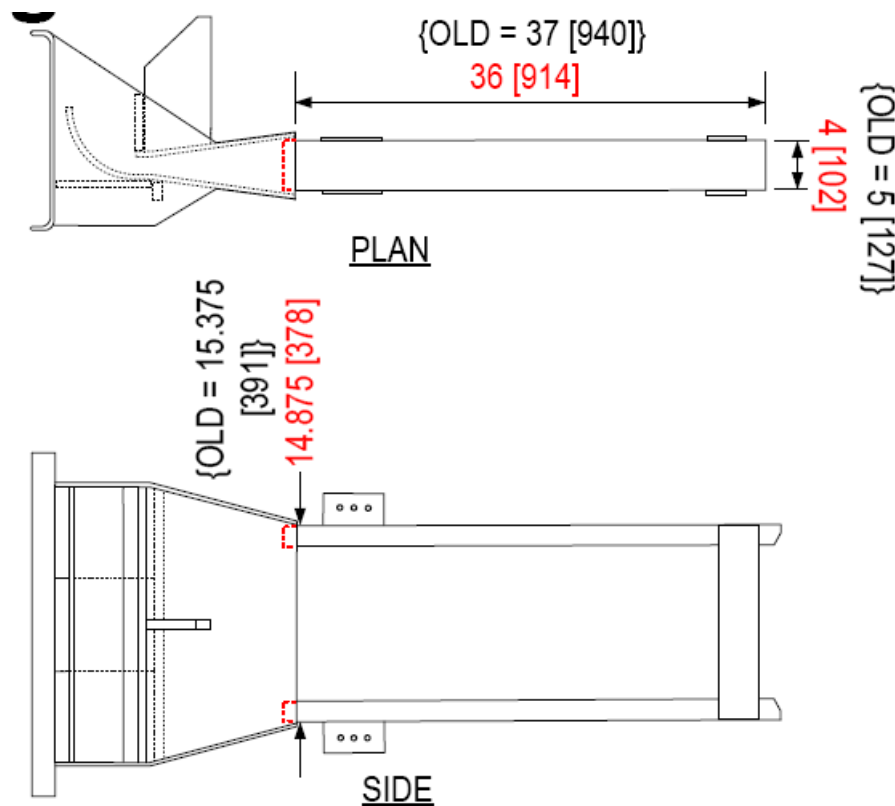
33. The current production of the ET-Plus guardrail end terminal is different than the design drawings and specifications that were presented to and approved by primary regulatory and industry authorities, including the Department of Transportation, the Federal Highway Administration and the NCHRP.

34. The current production of the ET-PLUS guardrail end terminal has a feeder chute with a width of 4 inches as opposed to 5 inches.

35. The current production of the ET-Plus guardrail end terminal has reduced the rail height from 15.375 inches to 14.875 inches.

36. The current production of the ET-Plus guardrail end 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 or in the design drawings and specifications.

37. In the current production, the ET-Plus impact plate, deflector and extruder throat are the same as the original production of the ET-Plus guardrail but the feeder chute is shorter, narrower and intrudes into the extruder throat. This differences are shown in red below:



38. In or about October of 2009, TRINITY HIGHWAY and TRINITY INDUSTRIES sent another design approval request to the primary and regulatory industry authorities, including the Department of Transportation and the Federal Highway Administration, for an ET-Plus system. That design also included a feeder chute with 5 inch wide feeder rails that did not intrude into the extruder head.

39. This is not the ET-Plus system TRINITY HIGHWAY and TRINITY INDUSTRIES have sold since about 2005.

40. The changes to the current production of the ET-Plus system have critically affected its performance when it is impacted.

41. The current production for the ET-Plus system, with its height reduction within the extruder throat and the reduction of its exit gap causes the guardrail to “throat lock” in the extruder throat during an impact.

42. When the current production of the ET-Plus system “throat locks” it is incapable of absorbing an impact.

43. The current production of the ET-Plus no longer creates a dynamic compression capable of pluming, flattening and deflecting a guardrail. An example is shown below:



44. As sold by the TRINITY Defendants, the guardrail comes in many separate and distinct parts that need to be assembled and installed pursuant to detailed design drawings. Failure to assemble and install the ET-Plus guardrail extruder head pursuant to the design drawings may lead to the guardrail end treatment failing to perform as designed and, thus, the guardrail end treatment may fail to provide the intended protection to the motoring public.

45. One of the component parts of the ET-Plus is the Cable Anchor bracket, “PN 704A”. Another TRINITY guardrail design, SRT-350 6 Post, and other similar designs manufactured by other companies, have an extremely similar Cable Anchor bracket to the “PN 704A”. However, the SRT-350 PN 700A cable anchor is different in terms of how it is installed and how it may function. Specifically, the 704A Cable Anchor is secured to the rail panel by inserting the protruding hooks on the bracket into the slots in the rail panel. Yet, if the SRT Cable Anchor bracket or another generic cable anchor is mistakenly used with an ET-Plus extruder head, it

may hinder the ET-Plus extruder head from sliding down the guardrail as intended because it is bolted to the backside of the guardrail panel using hex bolts.

46. The Florida Department of Transportation and its agents, subcontractors, and/or employees, were involved in a construction project (FPN: 417164-1-52-01) on SR33 in the area near the intersection of SR33 and Groveland Airport Road in Lake County, Florida.

47. FPN: 417164-1-52-01 included the installation of an ET-Plus guardrail, end terminal, and component parts.

48. Installing the ET-Plus guardrail extruder head and bolting an SRT cable anchor or a generic cable anchor to the backside of the guardrail panel rather than inserting protruding hooks into the panel on the guardrail will prevent the ET-Plus system from functioning as designed, and will cause the guardrail to become an additional hazard to members of the motoring public that come in contact with the guardrail.

49. The subject guardrail, an ET-Plus, manufactured by the Trinity Defendants had been damaged prior to the subject accident and had been repaired by the Florida Department of Transportation and state prisoners. In the repair process, the FDOT supervisors and state prisoners commingled parts from a different Trinity guardrail system, the SRT-350, and installed the parts on the ET-Plus system. By doing so it defeated the design intent of the ET-Plus system.

50. On or about October 29, 2010, at or about 9:05 p.m., in the area near the intersection of SR33 and Groveland Airport Road in Lake County, Florida, Plaintiff PIKE was a front seated passenger in a 2007 Ford truck, Vehicle Identification Number (“VIN”) 1FTRX12W77NA54645, Florida License Number K014RQ.

51. At that time and place, the 2007 Ford, driven by Leighton Kish, was traveling southbound on SR 33, within the speed limit, when an animal ran out into the road and Leighton Kish swerved the truck to miss the animal. As a result, he swerved the truck to the right. The truck went partially off of the shoulder of the road. Mr. Kish then turned the truck to the left and immediately thereafter, the right front of the truck collided straight on with the ET-Plus end terminal that bordered SR33. During the collision, the ET-Plus extruder head penetrated the passenger compartment of the truck and sliced Plaintiff PIKE's left leg, below the knee, all the way to the bone.

52. Upon arrival at the hospital, PIKE'S leg could not be saved and had to be surgically amputated.

53. During the collision, the ET-Plus end terminal failed catastrophically. Specifically, the ET-Plus guardrail when impacted by the Ford truck was not able to absorb the truck's energy and pierced through the Ford truck's front fender, cowling, and floor board and entered its passenger compartment.

54. In the alternative, the ET-Plus guardrail failed to perform as designed during the collision because it was improperly installed by the Florida Department of Transportation due to the TRINITY Defendants failure to provide adequate warnings. Trinity never instituted any safety engineering to assure that parts it manufactured could not be commingled on its different systems. It failed to adequately warn in its repair and instruction manuals and Trinity failed to put any warnings on the component parts themselves. Specifically, the ET-Plus guardrail was installed with the SRT cable anchor or another generic cable anchor that was bolted to the guardrail panel, instead of the as-called-for PN 704A Cable Anchor. As a result, when the

guardrail was impacted by the Ford truck, the energy absorbing member and accompanying cable was not able to perform as designed and instead got caught up in the bolts that were used to affix the cable anchor, and pierced through the Ford truck's passenger side front fender, cowling, and floor board, and entered its passenger compartment.

55. As a result of the collision, Plaintiff PIKE suffered injuries, including a below-the-knee amputation of his left leg.

56. The Plaintiff has pled the design defect and failure to warn claims in the alternative.

COUNT I
NEGLIGENCE OF TRINITY INDUSTRIES, INC.—DESIGN DEFECT

57. Plaintiff re-alleges paragraphs 1 – 44, 46 – 47, 50 -53, 55 – 56, as if fully set forth herein.

58. TRINITY INDUSTRIES had a duty to design, develop, manufacture, market, assemble, test, distribute and sell the ET-Plus end terminal so as to avoid exposing Charles Pike to unnecessary and unreasonable risks.

59. TRINITY INDUSTRIES breached its aforesaid duty of care in one or more of the following ways:

- a. By negligently altering the design and/or manufacturing of the ET-Plus end terminal so that it could not withstand an impact, such as the one created by the accident.
- b. By negligently failing to adequately test the ET-Plus end terminal.
- c. By failing to adequately warn foreseeable purchasers, installers and end users of the unreasonable dangerous and defective condition(s) of the ET-Plus end terminal, despite the fact that TRINITY INDUSTRIES knew or should have known of the unreasonably dangerous condition(s).

- d. By failing to disclose known problems and defects.
- e. By marketing the ET-Plus as safe.
- f. By failing to adequately provide proper and clear installation and repair instruction manuals and failing to provide adequate warnings.
- g. By failing to comply with reasonable and necessary guidelines, including those of the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- h. By failing to manufacture the ET-Plus end terminal according to the design specifications created by the Texas Transportation Institute and approved the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- i. By failing to recall the ET-Plus end terminal to enhance safety.
- j. By failing to inform the Department of Transportation, the Federal Highway Administration, and the NCHRP that it manufactured the ET-Plus not to the design specifications as set forth by the Texas Transportation Institute.
- k. By marketing and selling an uncertified ET-Plus end terminal

60. As a direct and proximate result of Defendant TRINITY INDUSTRIES's negligence, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY INDUSTRIES, INC.

COUNT II
NEGLIGENCE OF TRINITY HIGHWAY PRODUCTS—DESIGN DEFECT

61. Plaintiff re-alleges paragraphs 1 – 44, 46 – 47, 50 -53, 55 – 56, as if fully set forth herein.
62. TRINITY HIGHWAY had a duty to design, develop, manufacture, market, assemble, test, distribute and sell the ET-Plus end terminal so as to avoid exposing Charles Pike to unnecessary and unreasonable risks.
63. TRINITY HIGHWAY breached its aforesaid duty of care in one or more of the following ways:
- a. By negligently altering the design and/or manufacturing of the ET-Plus end treatment so that it could not withstand an impact, such as the one created by the accident.
 - b. By negligently failing to adequately test the ET-Plus end treatment.
 - c. By failing to adequately warn foreseeable purchasers, installers and end users of the unreasonable dangerous and defective condition(s) of the ET-Plus end treatment, despite the fact that TRINITY HIGHWAY knew or should have known of the unreasonably dangerous condition(s).
 - d. By failing to disclose known problems and defects.
 - e. By marketing the ET-Plus as safe.
 - f. By failing to adequately provide proper and clear installation and repair instruction manuals and failing to provide adequate warnings.
 - g. By failing to comply with reasonable and necessary guidelines, including those of the Department of Transportation, the Federal Highway Administration, and the NCHRP.

- h. By failing to manufacture the ET-Plus end terminal according to the design specifications approved by The Department of Transportation, the Federal Highway Administration, and the NCHRP.
- i. By failing to recall the ET-Plus to enhance safety.
- j. By failing to inform the Department of Transportation, the Federal Highway Administration, and the NCHRP that it manufactured the ET-Plus not to the design specifications as approved by The Department of Transportation; the Federal Highway Administration and the NCHRP.
- k. By marketing and selling an uncertified the ET-Plus end terminal.

64. As a direct and proximate result of Defendant TRINITY HIGHWAY's negligence, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY HIGHWAY PRODUCTS.

COUNT III
GROSS NEGLIGENCE OF TRINITY INDUSTRIES, INC.

65. Plaintiff re-alleges paragraphs 1 – 44, 46 – 47, 50 -53, 55 – 56 as if fully set forth herein.

66. TRINITY INDUSTRIES had a duty to design, develop, manufacture, market, assemble, test, distribute and sell the ET-Plus end terminal so as to avoid exposing Charles Pike to unnecessary and unreasonable risks.

67. TRINITY INDUSTRIES breached its aforesaid duty of care in one or more of the following ways:

- a. By negligently altering the design and/or manufacturing of the ET-Plus end terminal so that it could not withstand an impact, such as the one created by the accident.
- b. By negligently failing to adequately test the ET-Plus end terminal.
- c. By failing to adequately warn foreseeable purchasers, installers and end users of the unreasonable dangerous and defective condition(s) of the ET-Plus end terminal, despite the fact that TRINITY INDUSTRIES knew or should have known of the unreasonably dangerous condition(s).
- d. By failing to disclose known problems and defects.
- e. By marketing the ET-Plus as safe.
- f. By failing to adequately provide proper and clear installation and repair instruction manuals and failing to provide adequate warnings.
- g. By failing to comply with reasonable and necessary guidelines, including those of the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- h. By failing to manufacture the ET-Plus end terminal according to the design specifications created by the Texas Transportation Institute and approved the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- i. By failing to recall the ET-Plus end terminal to enhance safety.

j. By failing to inform the Department of Transportation, the Federal Highway Administration, and the NCHRP that it manufactured the ET-Plus not to the design specifications as set forth by the Texas Transportation Institute.

k. By marketing and selling an uncertified ET-Plus end terminal

68. Defendant TRINITY INDUSTRIES's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct (namely, the motoring public, including Plaintiff).

69. As a direct and proximate result of Defendant TRINITY INDUSTRIES's gross negligence, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages, punitive damages, and all other relief this Court deems proper against Defendant TRINITY INDUSTRIES, INC.

COUNT IV
GROSS NEGLIGENCE OF TRINITY HIGHWAY PRODUCTS

70. Plaintiff re-alleges paragraphs 1 – 44, 46 – 47, 50 -53, 55 – 56, as if fully set forth herein.

71. TRINITY HIGHWAY had a duty to design, develop, manufacture, market, assemble, test, distribute and sell the ET-Plus end terminal so as to avoid exposing Charles Pike to unnecessary and unreasonable risks.

72. TRINITY HIGHWAY breached its aforesaid duty of care in one or more of the following ways:

- a. By negligently altering the design and/or manufacturing of the ET-Plus end treatment so that it could not withstand an impact, such as the one created by the accident.
- b. By negligently failing to adequately test the ET-Plus end treatment.
- c. By failing to adequately warn foreseeable purchasers, installers and end users of the unreasonable dangerous and defective condition(s) of the ET-Plus end treatment, despite the fact that TRINITY HIGHWAY knew or should have known of the unreasonably dangerous condition(s).
- d. By failing to disclose known problems and defects.
- e. By marketing the ET-Plus as safe.
- f. By failing to adequately provide proper and clear installation and repair instruction manuals and failing to provide adequate warnings.
- g. By failing to comply with reasonable and necessary guidelines, including those of the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- h. By failing to manufacture the ET-Plus end terminal according to the design specifications approved by The Department of Transportation, the Federal Highway Administration, and the NCHRP.
- i. By failing to recall the ET-Plus to enhance safety.
- j. By failing to inform the Department of Transportation, the Federal Highway Administration, and the NCHRP that it manufactured the ET-Plus not to the design

specifications as approved by The Department of Transportation; the Federal Highway Administration and the NCHRP.

k. By marketing and selling an uncertified the ET-Plus end terminal.

73. Defendant TRINITY HIGHWAY's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct (namely, the motoring public, including Plaintiff).

74. As a direct and proximate result of Defendant TRINITY HIGHWAY's gross negligence, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages, punitive damages, and all other relief this Court deems proper against Defendant TRINITY HIGHWAY PRODUCTS.

COUNT V
STRICT LIABILITY OF TRINITY INDUSTRIES, INC.—DESIGN DEFECT

75. Plaintiff re-alleges paragraphs 1 – 44, 46 – 47, 50 -53, 55 – 56 as if fully set forth herein.

76. At all material times, TRINITY INDUSTRIES designed, developed, manufactured, marketed, assembled, distributed, sold and placed into the stream of commerce the subject ET-Plus end terminal.

77. At all material times, the subject guardrail was unreasonably dangerous and defective because:

- a. The ET-Plus end terminal was defective from an impact absorption standpoint; specifically, upon impact the ET-Plus end terminal would undergo throat lock-up.
 - b. The ET-Plus end terminal was defective for failing to provide adequate warnings to foreseeable users of the unreasonable dangerous and defective condition(s) of the ET-Plus, despite the fact that TRINITY INDUSTRIES knew or should have known of the unreasonably dangerous condition(s).
 - c. The ET-Plus end terminal was defective for failing to provide adequate Installation and Repair Manuals and warnings.
 - d. The ET-Plus end treatment was defective because it failed to comply with reasonable and necessary guidelines, including those of the Department of Transportation, the Federal Highway Administration, and the NCHRP.
 - e. The ET-Plus end terminal was defective because it was not manufactured according to the design specifications and approved the Department of Transportation, the Federal Highway Administration, and the NCHRP.
 - f. The ET-Plus end terminal was defective because it failed to comply with the standards of care applicable in the industry insofar as providing reasonable protection upon impact.
78. These unreasonably dangerous defects were present in the ET-Plus when it was placed into the stream of commerce by TRINITY INDUSTRIES.
79. The ET-Plus did not undergo material change or alteration up to and including the time of the aforementioned crash.

80. As a direct and proximate result of the aforementioned defects, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY INDUSTRIES, INC.

COUNT VI
STRICT LIABILITY OF TRINITY HIGHWAY PRODUCTS—DESIGN DEFECT

81. Plaintiff re-alleges paragraphs 1 – 44, 46 – 47, 50 -53, 55 – 56 as if fully set forth herein.

82. At all material times, TRINITY HIGHWAY designed, developed, manufactured, marketed, assembled, distributed, sold and laced into the stream of commerce the subject ET-Plus end terminal.

83. At all material times, the ET-Plus end terminal was unreasonably dangerous and defective because::

- a. The ET-Plus end terminal was defective from an impact absorption standpoint; specifically, upon impact the ET-Plus end terminal would undergo throat lock-up.
- b. The ET-Plus end terminal was defective for failing to provide adequate warnings to foreseeable users of the unreasonable dangerous and defective condition(s) of the ET-Plus, despite the fact that TRINITY HIGHWAY knew or should have known of the unreasonably dangerous condition(s).

- c. The ET-Plus end terminal was defective for failing to provide adequate Installation and Repair Manuals and warnings.
- d. The ET-Plus end terminal was defective because it failed to comply with reasonable and necessary guidelines, including those of the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- e. The ET-Plus end terminal was defective because it was not manufactured according to the design specifications and approved by the Department of Transportation, the Federal Highway Administration, and the NCHRP.
- f. The ET-Plus end terminal was defective because it failed to comply with the standards of care applicable in the industry insofar as providing reasonable protection upon impact.

84. These unreasonably dangerous defects were present in the ET-Plus when it was placed into the stream of commerce by TRINITY HIGHWAY.

85. The ET-Plus end treatment did not undergo material change or alteration up to and including the time of the aforementioned crash.

86. As a direct and proximate result of Defendant TRINITY HIGHWAY's failures, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY HIGHWAY

PRODUCTS.

COUNT VII
NEGLIGENCE OF TRINITY HIGHWAY PRODUCTS – FAILURE TO WARN

87. Plaintiff re-alleges paragraphs 1 – 52, 54 - 56 as if fully set forth herein.

88. TRINITY HIGHWAY designed, tested, manufactured, and sold its ET-Plus guardrail to the State of Florida. TRINITY HIGHWAY also designs, tests, manufactures, and sells other style guardrails.

89. As TRINITY HIGHWAY knows, parts designed, tested, manufactured, and sold by TRINITY HIGHWAY for use with a specific model TRINITY HIGHWAY guardrail can sometimes be used with different model TRINITY HIGHWAY guardrails, even though to do so can and does result in the overall performance of a particular guardrail to fail to function as designed.

90. The PN 700A Cable Anchor from the SRT-350 6 Post guardrail and other generic cable anchors can be installed on the ET-Plus guardrail instead of the PN 704A Cable Anchor, thereby compromising the integrity of the ET-Plus guardrail.

91. In this case, Defendant FDOT, through its agents, subcontractors, and/or employees, installed the PN 700A Cable Anchor or another generic cable anchor on the ET-Plus guardrail. Neither the PN 700A Cable Anchor part, the generic cable anchor, nor the ET-Plus guardrail had any warnings advising that only parts designed, tested, manufactured, and sold for use with the ET-Plus guardrail (specifically the PN 704A Cable Anchor) should be installed on the ET-Plus guardrail.

92. TRINITY HIGHWAY owed a duty to warn that parts from other guardrails should not be installed on the ET-Plus guardrail.

93. TRINITY HIGHWAY knew or should have known by the exercise of reasonable care that, due to the similarity in appearance between the PN 700A Cable Anchor and other generic cable anchors and the PN 704A Cable Anchor, a person might use the PN 700A Cable Anchor or another generic cable anchor to install the ET-Plus guardrail.

94. TRINITY HIGHWAY knew or should have known by the exercise of reasonable care that the use of the PN 700A Cable Anchor or another generic cable anchor with the ET-Plus guardrail would make the product defective and dangerous.

95. TRINITY HIGHWAY breached its duty by failing to warn about the appropriateness of using only the designed PN 704A Cable Anchor on the ET-Plus guardrail, and warning about using the danger of using the similar looking PN 700A Cable Anchor or other generic cable anchors.

96. As a direct and proximate result of Defendant TRINITY HIGHWAY's negligent failure to warn, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY HIGHWAY PRODUCTS.

COUNT VIII
STRICT LIABILITY OF TRINITY HIGHWAY PRODUCTS – FAILURE TO WARN

97. Plaintiff re-alleges paragraphs 1 – 52, 54 - 56, as if fully set forth herein.

98. TRINITY HIGHWAY designed, tested, manufactured, and sold its ET-Plus guardrail to the State of Florida. TRINITY HIGHWAY also designs, tests, manufactures, and sells other style guardrails.

99. As TRINITY HIGHWAY knows, parts designed, tested, manufactured, and sold by TRINITY HIGHWAY for use with a specific model TRINITY HIGHWAY guardrail can sometimes be used with different model TRINITY HIGHWAY guardrails, even though to do so can and does result in the overall performance of a particular guardrail to fail to function as designed.

100. The PN 700A Cable Anchor from the SRT-350 6 Post guardrail and other generic cable anchors can be installed on the ET-Plus guardrail instead of the PN 704A Cable Anchor, thereby compromising the integrity of the ET-Plus guardrail.

101. In this case, Defendant FDOT, through its agents, subcontractors, and/or employees, installed the PN 700A Cable Anchor or another generic cable anchor on the ET-Plus guardrail. Neither the PN 700A Cable Anchor part, the generic cable anchor, nor the ET-Plus guardrail had any warnings advising that only parts designed, tested, manufactured, and sold for use with the ET-Plus guardrail (specifically the PN 704A Cable Anchor) should be installed on the ET-Plus guardrail.

102. TRINITY HIGHWAY knew or should have known in light of the generally prevailing and best knowledge available that due to the similarity in appearance between the PN 700A

Cable Anchor and other generic cable anchors and the PN 704A Cable Anchor, a person might use the PN 700A Cable Anchor or other generic cable anchors to install the ET-Plus guardrail, and to do so would make the ET-Plus guardrail defective and dangerous.

103. TRINITY HIGHWAY failed to adequately warn about the dangers and risks associated with using the PN 700A Cable Anchor, or using any Anchor other than the PN 704A, on the ET-Plus guardrail system.

104. As a direct and proximate result of Defendant TRINITY HIGHWAY's failure to warn, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY HIGHWAY PRODUCTS.

COUNT IX
NEGLIGENCE OF TRINITY INDUSTRIES– FAILURE TO WARN

105. Plaintiff re-alleges paragraphs 1 – 52, 54 - 56 as if fully set forth herein.

106. TRINITY INDUSTRIES designed, tested, manufactured, and sold its ET-Plus guardrail to the State of Florida. TRINITY INDUSTRIES also designs, tests, manufactures, and sells other style guardrails.

107. As TRINITY INDUSTRIES knows, parts designed, tested, manufactured, and sold by TRINITY INDUSTRIES for use with a specific model TRINITY INDUSTRIES guardrail can

sometimes be used with different model TRINITY INDUSTRIES guardrails, even though to do so can and does result in the overall performance of a particular guardrail to fail to function as designed.

108. The PN 700A Cable Anchor from the SRT-350 6 Post guardrail and other generic cable anchors can be installed on the ET-Plus guardrail instead of the PN 704A Cable Anchor, thereby compromising the integrity of the ET-Plus guardrail.

109. In this case, Defendant FDOT, through its agents, subcontractors, and/or employees, installed the PN 700A Cable Anchor or another generic cable anchor on the ET-Plus guardrail. Neither the PN 700A Cable Anchor part, the generic cable anchor, nor the ET-Plus guardrail had any warnings advising that only parts designed, tested, manufactured, and sold for use with the ET-Plus guardrail (specifically the PN 704A Cable Anchor) should be installed on the ET-Plus guardrail.

110. TRINITY INDUSTRIES owed a duty to warn that parts from other guardrails should not be installed on the ET-Plus guardrail.

111. TRINITY INDUSTRIES knew or should have known by the exercise of reasonable care that, due to the similarity in appearance between the PN 700A Cable Anchor and other generic cable anchors and the PN 704A Cable Anchor, a person might use the PN 700A Cable Anchor or another generic cable anchor to install the ET-Plus guardrail.

112. TRINITY INDUSTRIES knew or should have known by the exercise of reasonable care that the use of the PN 700A Cable Anchor or another generic cable anchor with the ET-Plus guardrail would make the product defective and dangerous.

113. TRINITY INDUSTRIES breached its duty by failing to warn about the appropriateness of using only the designed PN 704A Cable Anchor on the ET-Plus guardrail, and warning about using the danger of using the similar looking PN 700A Cable Anchor or other generic cable anchors.

114. As a direct and proximate result of Defendant TRINITY INDUSTRIES's negligent failure to warn, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury, pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY INDUSTRIES, INC.

COUNT X
STRICT LIABILITY OF TRINITY INDUSTRIES – FAILURE TO WARN

115. Plaintiff re-alleges paragraphs 1 – 52, 54 - 56 as if fully set forth herein.

116. TRINITY INDUSTRIES designed, tested, manufactured, and sold its ET-Plus guardrail to the State of Florida. TRINITY INDUSTRIES also designs, tests, manufactures, and sells other style guardrails.

117. As TRINITY INDUSTRIES knows, parts designed, tested, manufactured, and sold by TRINITY INDUSTRIES for use with a specific model TRINITY INDUSTRIES guardrail can sometimes be used with different model TRINITY INDUSTRIES guardrails, even though to do

so can and does result in the overall performance of a particular guardrail to fail to function as designed.

118. The PN 700A Cable Anchor from the SRT-350 6 Post guardrail and other generic cable anchors can be installed on the ET-Plus guardrail instead of the PN 704A Cable Anchor, thereby compromising the integrity of the ET-Plus guardrail.

119. In this case, Defendant FDOT, through its agents, subcontractors, and/or employees, installed the PN 700A Cable Anchor or another generic cable anchor on the ET-Plus guardrail. Neither the PN 700A Cable Anchor part, the generic cable anchor, nor the ET-Plus guardrail had any warnings advising that only parts designed, tested, manufactured, and sold for use with the ET-Plus guardrail (specifically the PN 704A Cable Anchor) should be installed on the ET-Plus guardrail.

120. TRINITY INDUSTRIES knew or should have known in light of the generally prevailing and best knowledge available that due to the similarity in appearance between the PN 700A Cable Anchor and other generic cable anchors and the PN 704A Cable Anchor, a person might use the PN 700A Cable Anchor or other generic cable anchors to install the ET-Plus guardrail, and to do so would make the ET-Plus guardrail defective and dangerous.

121. TRINITY INDUSTRIES failed to adequately warn about the dangers and risks associated with using the PN 700A Cable Anchor, or using any Anchor other than the PN 704A, on the ET-Plus guardrail system.

122. As a direct and proximate result of Defendant TRINITY INDUSTRIES's failure to warn, Plaintiff CHARLES PIKE suffered injury, including but not limited to, bodily injury, permanent injury within a reasonable degree of medical probability, aggravation of a pre-existing injury,

pain and suffering, mental anguish, loss of the capacity for the enjoyment of life, and the medical expense associated with the care and treatment of said injuries.

WHEREFORE, Plaintiff CHARLES PIKE demands judgment for compensatory damages and all other relief this Court deems proper against Defendant TRINITY INDUSTRIES, INC

REQUEST FOR JURY TRIAL

Plaintiff requests a jury trial on all issues so triable as a matter of right.

Respectfully submitted,


THEODORE J. LEOPOLD, ESQ.
Florida Bar No.: 705608
Email: tleopold@leopold-law.com
LEOPOLD LAW, P.A.
2925 PGA Boulevard, Suite 200
Palm Beach Gardens, FL 33410
(561) 515-1400

FLORIDA TRAFFIC CRASH REPORT LONG FORM

MAIL TO: DEPT. OF HIGHWAY SAFETY & MOTOR VEHICLES, TRAFFIC CRASH
RECORDS, NEIL KIRKMAN BUILD NG, TALLAHASSEE, FL 32399-0537

DO NOT WRITE IN THIS SPACE

Time & Location	DATE OF CRASH	TIME OF CRASH	TIME OFFICER NOTIFIED	TIME OFFICER ARRIVED	INVEST. AGENCY REPORT NUMBER	HSMV CRASH REPORT NUMBER
	12 / 00	09:05 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	9:08 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	9:15 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM		
	COUNTY / CITY CODE	FEET or MILE(S)	CITY OR TOWN		COUNTY	
	12 / 00	5	GROVELAND		Lake	
AT NODE NO. or FEET or MILE(S)	FROM NODE NO.	NEXT NODE NO.	NO. OF LANES	ON STREET, ROAD OR HIGHWAY		
			2	SR 33		
AT THE INTERSECTION OF (street, road or highway) or FEET or MILE(S)	FROM INTERSECTION OF (street, road or highway)					
	200		GROVELAND AIRPORT RD			

Section 1	DRIVER ACTION	YEAR	MAKE	TYPE	USE	VEH. LICENSE NUMBER	STATE	VEHICLE IDENTIFICATION NUMBER	 18 Undercarriage 19 Overtum 20 Windshield 21 Trailer SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S)
	1 Phantom 2 Hit & Run 3 N/A	03	07	FORD	03	01		FL	
TRAILER OR TOWED VEHICLE INFORMATION	TRAILER TYPE								

Section 1	VEHICLE TRAVELING	ON	AT	Est. MPH	Posted Speed	EST. VEHICLE DAMAGE	1 Disabling 2 Functional 3 No Damage	EST. TRAILER DAMAGE	SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S)
	<input checked="" type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W			60	55	\$ 15,000	01		05

MOTOR VEHICLE INSURANCE COMPANY (LIABILITY OR PIP)	PROGRESSIVE								
NAME OF VEHICLE OWNER (Check Box 1 Same As Driver)	GLENN C KISH								


NAME OF OWNER (Trailer or Towed Vehicle)	CURRENT ADDRESS (Number and Street)	CITY AND STATE	ZIP CODE
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NAME OF MOTOR CARRIER (Commercial vehicle Only)	CURRENT ADDRESS (Number and Street)	CITY, STATE AND ZIP CODE	US DOT or ICC MC IDENTIFICATION NUMBERS
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NAME OF DRIVER (take From Driver License)	LEIGHTON C KISH		
---	-----------------	--	--

DRIVER LICENSE NUMBER			
-----------------------	--	--	--

HAZARDOUS MATERIALS BEING TRANSPORTED	PLACARDED	IF YES, INDICATE NAME OF 4 DIGIT NUMBER FROM DIAMOND OR BOX ON PLACARD, AND 1 DIGIT NUMBER FROM BOTTOM OF DIAMOND.	WAS HAZARDOUS MATERIAL SPILLED?	RECOMMEND DRIVER RE-EXAM, IF YES EXPLAIN IN NARRATIVE	DRIVER'S PHONE NO.
1 Yes 2 No	1 Yes 2 No	2	1 Yes 2 No	1 Yes 2 No	2

Section 1	DRIVER ACTION	YEAR	MAKE	TYPE	USE	VEH. LICENSE NUMBER	STATE	VEHICLE IDENTIFICATION NUMBER	 18 Undercarriage 19 Overtum 20 Windshield 21 Trailer SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S)
	1 Phantom 2 Hit & Run 3 N/A								
TRAILER OR TOWED VEHICLE INFORMATION	TRAILER TYPE								

Section 1	VEHICLE TRAVELING	ON	AT	Est. MPH	Posted Speed	EST. VEHICLE DAMAGE	1 Disabling 2 Functional 3 No Damage	EST. TRAILER DAMAGE	SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S)
	<input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W								

MOTOR VEHICLE INSURANCE COMPANY (LIABILITY OR PIP)	POLICY NUMBER	VEHICLE REMOVED BY:	1 Tow Rotation List 2 Tow Owner's Request	3 Driver 4 Other
--	---------------	---------------------	--	---------------------

NAME OF VEHICLE OWNER (Check Box 1 Same As Driver)	CURRENT ADDRESS (Number and Street)	CITY AND STATE	ZIP CODE
--	-------------------------------------	----------------	----------

NAME OF OWNER (Trailer or Towed Vehicle)	CURRENT ADDRESS (Number and Street)	CITY AND STATE	ZIP CODE
--	-------------------------------------	----------------	----------

NAME OF MOTOR CARRIER (Commercial vehicle Only)	CURRENT ADDRESS (Number and Street)	CITY, STATE AND ZIP CODE	US DOT or ICC MC IDENTIFICATION NUMBERS
---	-------------------------------------	--------------------------	---

NAME OF DRIVER (take From Driver License) / PEDESTRIAN	CURRENT ADDRESS (Number and Street)	CITY & STATE / ZIP CODE	DATE OF BIRTH
--	-------------------------------------	-------------------------	---------------

DRIVER LICENSE NUMBER	STATE	DL TYPE	REQ. END.	ALC/DRUG TEST TYPE	RESULTS	ALC/DRUG	PHYS.DEF.	RES.	RACE	SEX	INJ.	S. EQUIP.	EJECT.
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HAZARDOUS MATERIALS BEING TRANSPORTED	PLACARDED	IF YES, INDICATE NAME OF 4 DIGIT NUMBER FROM DIAMOND OR BOX ON PLACARD, AND 1 DIGIT NUMBER FROM BOTTOM OF DIAMOND.	WAS HAZARDOUS MATERIAL SPILLED?	RECOMMEND DRIVER RE-EXAM, IF YES EXPLAIN IN NARRATIVE	DRIVER'S PHONE NO.
1 Yes 2 No	1 Yes 2 No		1 Yes 2 No	1 Yes 2 No	

Code Information	VEHICLE TYPE	VEHICLE USE	TRAILER TYPE	RESIDENCE (Driver Only)	PHYSICAL DEFECTS	ALCOHOL / DRUG USE	LOCATION IN VEHICLE
	01 Automobile 02 Van 03 Light Truck/ P.U. - 2 or 4 rear tires 04 Medium Truck - 4 rear tires 05 Heavy Truck - 2 or more rear axles 06 Truck Tractor (Cab-Boat)l 07 Motor Home (RV) 08 Bus (driver + seats for 9-15) 09 Bus (driver + seats for over 15) 10 Bicycle 11 Motorcycle 12 Moped 13 All Terrain Vehicle 14 Train 15 Low Speed Vehicle 77 - Other	01 Private Transportation 02 Commercial Passengers 03 Commercial Cargo 04 Public Transportation 05 Public School Bus 06 Private School Bus 07 Ambulance 08 Law Enforcement 09 Fire/Rescue 10 Military 11 Other Government 12 Dump 13 Concrete Mixer 14 Garbage or Refuse 15 Cargo Van 77 Other	01 Single Semi Trailer 02 Tandem Semi Trailer 03 Tank Trailer 04 Saddle Mount / Flatbed 05 Boat Trailer 06 Utility Trailer 07 House Trailer 08 Pole Trailer 09 Towed Vehicle 10 Auto Transport 77 Other	1 County Of Crash 2 Elsewhere in State 3 Non-Resident Out of State 4 Foreign_ 5 Unknown DL TYPE 1 A 2 B 3 C 4 D / Chauffeur 5 E / Operator 6 E / Oper-Rest 7 Other REQUIRED ENDORSEMENTS 1 Yes 2 No 3 No Endorsement Required	1 White 2 Black 3 Hispanic 4 Other SEX 1 Male 2 Female	1 No Defects Known 2 Eyesight Defect 3 Fatigue / Asleep 4 Hearing Defect 5 Illness 6 Seizure, Epilepsy, Blackout 7 Other Physical Defect INJURY SEVERITY 1 None 2 Possible 3 Non-Incapacitating 4 Incapacitating 5 Fatal (Within 30 Days) 6 Non-Traffic Fatality	1 Not Drinking or Using Drugs 2 Alcohol - Under Influence 3 Drugs - Under Influence 4 Alcohol & Drugs - Under Influence 5 Had Been Drinking 6 Pending ALC/DRUG Test Results SAFETY EQUIPMENT IN USE 1 Not in Use 2 Seat Belt / Shoulder Harness 3 Child Restraint 4 Air Bag - Deployed 5 Air Bag - Not Deployed 6 Safety Helmet 7 Eye Protection

S e c t i o n	DRIVER ACTION	1 Phantom 2 Hit & Run 3 N/A	YEAR	MAKE	TYPE	USE	VEH. LICENSE NUMBER	STATE	VEHICLE IDENTIFICATION NUMBER		18 Undercarriage 19 Overturn 20 Windshield 22 Trailer				
	TRAILER OR TOWED VEHICLE INFORMATION				TRAILER TYPE						SHOW FIRST POINT OF VEHICLE DAMAGE AND CIRCLE DAMAGED AREA(S)				
V e h i c l e	VEHICLE TRAVELING	N S E W	ON	AT	Est. MPH	Posted Speed	EST. VEHICLE DAMAGE	1 Disabling 2 Functional 3 No Damage	EST. TRAILER DAMAGE	1 Tow Rotation List 2 Tow Owner's Request	3 Driver 4 Other				
	MOTOR VEHICLE	NSURANCE COMPANY (LIABILITY OR PIP)	POLICY NUMBER	VEHICLE REMOVED BY:											
P e d e s t r i a n	NAME OF VEHICLE OWNER (Check Box if Same As Driver)	CURRENT ADDRESS (Number and Street)	CITY AND STATE	ZIP CODE											
	NAME OF OWNER (Trailer or Towed Vehicle)	CURRENT ADDRESS (Number and Street)	CITY AND STATE	ZIP CODE											
	NAME OF MOTOR CARRIER (Commercial vehicle Only)	CURRENT ADDRESS (Number and Street)	CITY, STATE AND ZIP CODE	US DOT or ICC MC IDENTIFICATION NUMBERS											
	NAME OF DRIVER (take From Driver License) / PEDESTRIAN	CURRENT ADDRESS (Number and Street)	CITY & STATE / ZIP CODE	DATE OF BIRTH											
	DRIVER LICENSE NUMBER	STATE	DL TYPE	REQ. END.	ALC/DRUG TEST TYPE	RESULTS	ALC/DRUG	PHYS. DEF.	RES	RACE	SEX	NJ.	S. EQUIP.	EJECT.	
	HAZARDOUS MATERIALS BEING TRANSPORTED	PLACARDED	IF YES, INDICATE NAME OF 4 DIGIT NUMBER FROM DIAMOND OR BOX ON PLACARD, AND 1 DIGIT NUMBER FROM BOTTOM OF DIAMOND.			WAS HAZARDOUS MATERIAL SPILLED?	RECOMMEND DRIVER RE-EXAM, IF YES EXPLAIN IN NARRATIVE	DRIVER'S PHONE NO.							

#	PROPERTY DAMAGED - OTHER THAN VEHICLES	EST. AMOUNT	OWNER'S NAME	ADDRESS	CITY	STATE	ZIP
1	ROAD SIGN	\$ 100	STATE DOT	1405 THOMAS AVE	LEESBURG	FL	34748
#	PROPERTY DAMAGED - OTHER THAN VEHICLES	EST. AMOUNT	OWNER'S NAME	ADDRESS	CITY	STATE	ZIP
2	GUARD RAIL	\$ 5,000	STATE DOT	1405 THOMAS AVE	LEESBURG	FL	34748

CONTRIBUTING CAUSES - DRIVER / PEDESTRIAN			VEHICLE DEFECTS			VEHICLE MOVEMENT			VEHICLE SPECIAL FUNCTIONS						
01 No Improper Driving / Action	1	2	3	01 No Defects	1	2	3	01 Straight Ahead	1	2	3	1 None	1	2	3
02 Careless Driving (Explain In Narrative)				02 Def. Brakes				02 Slowing / Stopped / Stalled				2 Farm			
03 Failed to Yield Right-of-Way	02			03 Worn / Smooth Tires	01			03 Making Left Turn	01			3 Police Pursuit	1		
04 Improper Backing				04 Defective / Improper Lights				04 Backing				4 Recreational			
05 Improper Lane Change				05 Puncture / Blowout				05 Making Right Turn				5 Emergency Operation			
06 Improper Turn				06 Steering Mech.				06 Changing Lanes				6 Construction / Maintenance			
07 Alcohol-Under Influence				07 Windshield Wipers				07 Entering / Leaving Parking Space				SOURCE OF CARRIER INFORMATION			
08 Drugs-Under Influence				08 Equipment / Vehicle Defect				08 Properly Parked				1 Not Applicable	1	2	3
09 Alcohol & Drugs-Under Influence				77 All Other (Explain In Narrative)				09 Improperly Parked				2 Shipping Papers			
10 Followed Too Closely				POINT OF COLLISION				10 Making U-Turn				3 Vehicle Side	1		
11 Disregarded Traffic Signal				01 On Road	1	2	3	PEDESTRIAN ACTION				4 Driver			
12 Exceeded Safe Speed Limit				02 Not On Road				01 Crossing Not at Intersection				5 Other			
13 Disregarded Stop Sign				03 Shoulder	03			02 Crossing at Mid-block Crosswalk				LOCATION TYPE			
14 Failed to Maintain Equip. / Vehicle				04 Median				03 Crossing at Intersection				1 Primarily Business			
15 Improper Passing				05 Turn Lane				04 Walking Along Road With Traffic				2 Primarily Residential	02		
16 Drove Left of Center				WORK AREA				05 Walking Along Road Against Traffic				3 Open Country			
17 Exceeded Stated Speed Limit				01 None	1	2	3	06 Working on Vehicle in Road							
18 Obstructing Traffic				02 Nearby	01			07 Working in Road							
				03 Entered				08 Standing/Playing in Road							
				77 All Other (Explain In Narrative)				09 Standing in Pedestrian Island							

FIRST / SUBSEQUENT HARMFUL EVENT(S)			ROAD SYSTEM IDENTIFIER			LIGHTING CONDITION		
01 Collision With MV in Transport (Rear End)	15 Collision with Animal	29 MV Ran Into Ditch / Culvert	1	2	3	01 Interstate	07 Forest Road	01 Daylight
02 Collision With MV in Transport (Head-on)	16 MV Hit Sign / Sign Post	30 Ran off Road Into Water				02 U.S.	08 Private Roadway	02 Dusk
03 Collision With MV in Transport (Angle)	17 MV Hit Utility Pole / Light Pole	31 Overturned	16			03 State	77 All Other (Explain In Narrative)	03 Dawn
04 Collision With MV in Transport (Left Turn)	18 MV Hit Guardrail	32 Occupant Fell From Vehicle				04 County		04 Dark (Street Light)
05 Collision With MV in Transport (Right Turn)	19 MV Hit Fence	33 Tractor / Trailer Jackknifed	18			05 Local		05 Dark (No Street Light)
06 Collision With MV in Transport (Sideswipe)	20 MV Hit Concrete Barrier Wall	34 Fire				06 Turnpike / Toll		06 Unknown
07 Collision With MV in Transport (Backed Into)	21 MV Hit Bridge / Pier / Abutment / Rail	35 Explosion				ROAD SURFACE / CONDITION		WEATHER
08 Collision With Parked Car	22 MV Hit Tree / Shrubbery	35 Downhill Runaway				01 Dry	01 Clear	01 Slag / Gravel / Stone
09 Collision with MV on Roadway	23 Collision with Construction Barricade Sign	37 Cargo Loss or Shift				02 Wet	02 Cloudy	02 Blacktop
10 Collision with Pedestrian	24 Collision with Traffic Gate	38 Separation of Units				03 Slippery	03 Rain	03 Brick / Block
11 Collision with Bicycle	25 Collision with Crash Attenuators	39 Median Crossover				04 Icy	04 Fog	04 Concrete
12 Collision with Bicycle (Bike Lane)	26 Collision with Fixed Object Above Road	77 All Other (Explain In Narrative)				77 All Other (Explain In Narrative)	77 All Other (Explain In Narrative)	05 Dirt
13 Collision with Moped	27 MV Hit Other Fixed Object							77 All Other (Explain In Narrative)
14 Collision with Train	28 Collision with Moveable Object on Road							

ROAD CONDITIONS AT TIME OF CRASH			VISION OBSTRUCTED			TRAFFIC CONTROL			SITE LOCATION			TRAFFICWAY CHARACTER		
01 No Defects	01 Vision Not Obscured	01 No Control	01	01 Vision Not Obscured	01 No Control	01 Not At Intersection / RR X'ing / Bridge	1. Straight-Level							
02 Obstruction With Warning	02 Inclement Weather	02 Special Speed Zone		02 Inclement Weather	02 Special Speed Zone	02 At Intersection	2. Straight-Upgrade / Downgrade							
03 Obstruction Without Warning	03 Parked / Stopped Vehicle	03 Speed Control Sign	01	03 Parked / Stopped Vehicle	03 Speed Control Sign	03 Influenced By Intersection	3. Curve-Level							
04 Road Under Repair / Construction	04 Trees / Crops / Bushes	04 School Zone		04 Trees / Crops / Bushes	04 School Zone	04 Driveway Access	4. Curve-Upgrade / Downgrade							
05 Loose Surface Materials	05 Load on Vehicle	05 Traffic Signal		05 Load on Vehicle	05 Traffic Signal	05 Railroad	TYPE SHOULDER							
06 Shoulders - Soft / Low / High	06 Building / Fixed Object	06 Stop Sign		06 Building / Fixed Object	06 Stop Sign	06 Bridge	1. Paved							
07 Holes / Ruts / Unsafe Paved Edge	07 Signs / Billboards	07 Yield Sign		07 Signs / Billboards	07 Yield Sign	07 Entrance Ramp	2. Unpaved							
08 Stading Water	08 Fog	08 Flashing Light		08 Fog	08 Flashing Light	08 Exit Ramp	3. Curb							
09 Worn / Polished Road Surface	09 Smoke	09 Railroad Signal		09 Smoke	09 Railroad Signal	09 Parking Lot - Public								
77 All Other (Explain In Narrative)	77 All Other (Explain In Narrative)	10 Officer / Guard / Flagman		77 All Other (Explain In Narrative)	10 Officer / Guard / Flagman	10 Parking Lot - Private								

V i o l a t o r (s)	SECTION #	NAME OF VIOLATOR (s)	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
	SECTION #	NAME OF VIOLATOR (s)	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
	SECTION #	NAME OF VIOLATOR (s)	FL STATUTE NUMBER	CHARGE	CITATION NUMBER

FLORIDA TRAFFIC CRASH REPORT

NARRATIVE / DIAGRAM

MAIL TO: DEPT. OF HIGHWAY SAFETY & MOTOR VEHICLES TRAFFIC CRASH
RECORDS SECTION, NEIL KIRKMAN BUILDING, TALLAHASSEE, FL 32399-0500

DO NOT WRITE IN THIS SPACE

TIME EMS NOTIFIED (FATALITIES ONLY) <input type="checkbox"/> AM <input type="checkbox"/> PM	TIME EMS ARRIVED (FATALITIES ONLY) <input type="checkbox"/> AM <input type="checkbox"/> PM	DATE OF CRASH ██████	COUNTY / CITY CODE 12 / 00	INVEST. AGENCY REPORT NUMBER ██████	HSMV CRASH REPORT NUMBER ██████
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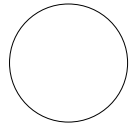


SEC#	PASS#	PASSENGER'S NAME	CURRENT ADDRESS	CITY & STATE	ZIP CODE	DATE OF BIRTH	RACE	SEX	LOC	INJ	S. EQUIP	EJECT

Violator(s)	SECTION #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER
	SECTION #	NAME OF VIOLATOR	FL STATUTE NUMBER	CHARGE	CITATION NUMBER

WITNESS NAME (1)	CURRENT ADDRESS	CITY & STATE	ZIP CODE	WITNESS NAME (2)	CURRENT ADDRESS	CITY & STATE	ZIP CODE
FIRST AID GIVEN BY - NAME: GROVELAND F.D.	1 Physician or Nurse 2 Paramedic or EMT 4 Certified 1st Aider 5 Other	3 Police Officer 02	INJURED TAKEN TO: O.R.M.C.	BY - NAME: AIR CARE			
WAS INVESTIGATION MADE AT SCENE? 1 YES 2 NO [1]	IF NO, THEN WHERE? 	IS INVESTIGATION COMPLETE? 1 YES 2 NO [1]	IF NO, THEN WHY? 	DATE OF REPORT 10/29/2010	PHOTOS TAKEN? 1 YES 2 NO [2]	IF YES, BY WHOM? 1 INVEST. AGENCY 2 OTHER <input type="checkbox"/>	
INVESTIGATOR - RANK & SIGNATURE TPR J. A. RATLIFF	ID / BADGE NUMBER 2133	DEPARTMENT FHP	FHP <input checked="" type="checkbox"/>	SO <input type="checkbox"/>	CPD <input type="checkbox"/>	OTHER <input type="checkbox"/>	

DIAGRAM



INDICATE NORTH
WITH ARROW

NOT TO SCALE

