

11th JUDICIAL CIRCUIT IN AN FOR
MIADI DADE COUNTY, FLORIA

GENERAL JURSIDITION DIVISION

CASE NO:

STEPHANIE BLOSSOM

Plaintiff,

v.

FLORIDA DEPARTMENT OF
TRANSPORTION, an agency of the STATE
of Florida, and M.C.M. CORP., a Florida
corporation and De ANGELO BROTHERS,
LLC., f/k/a De ANGELO BROTHERS, INC.,
Limited Liability Corp.,

Defendant.

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiff, STEPHANIE BLOSSOM, through her undersigned counsel, files this Complaint for damages against FLORIDA DEPARTMENT OF TRANSPORTION, (F.D.O.T.) an agency of the State of Florida, MCM Corp., (MCM) a Florida Corporation and De ANGELO BROTHERS, LLC., f/k/a De ANGELO BROTHERS, INC., (De ANGELO) a Florida Limited Liability Corp., and states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter in that it is an action for damages in an amount greater than FIFTEEN THOUSAND (\$15,000.00) DOLLARS exclusive of interest, costs and attorney's fees.

2. Venue is proper in Miami-Dade County in that all incidences complained of occurred in said County.

PARTIES

3. The Plaintiff, STEPHANIE BLOSSOM, is a resident of Miami Dade County, Florida and otherwise *sui juries*.

4. That at all times material hereto, the FDOT was and is an agency of the State of Florida, created pursuant to Fla. Stat. §20.23 and organized and existing under the laws of Florida and, owned, maintained and/or controlled the subject right of way and appurtenant easements along the 95 Express corridor, which is the subject of this matter of this lawsuit.

5. At all times material hereto, M.C.M., was and is a Florida corporation with its principal place of business located in Miami Beach, Florida; and was doing business throughout the State of Florida, including Miami-Dade County, Florida.

6. At all times material hereto, De ANGELO BROTHERS, LLC was and is a limited liability corporation, with its principal place of business located in Pennsylvania and was doing business throughout the State of Florida, including Miami-Dade County, Florida.

7. The Plaintiff has complied with all the conditions precedent pursuant to Fla. Stat. §768.28 prior to the filing of this action and, the FDOT has received notice of this claim within the timeframe and manner as prescribed by law, with a copy of said notice directed to the Department of Financial Services of the State of Florida. A true copy of said notice is attached hereto as "Composite Exhibit A".

STATEMENT OF FACTS

8. In June of 2007 the FDOT undertook measures to implement an experimental pilot program, Financial Project Number 422796-1 Interstate 95 Managed Lanes Project Development and Environment Study, (more commonly known as the "95 Express Project"), in order to provide traffic congestion relief to South Florida.

9. Phase 1 construction of the 95 Express Project began in February 2008 and consisted of restriping and reconfiguring the existing roadway to create a sixth travel lane (i.e. four free general purpose local lanes and two toll express lanes for long distance trips only) by converting the existing High Occupancy Vehicle (HOV) lanes into High Occupancy Toll (HOT) lanes, in the northbound I-95 seven mile corridor from the State Road 112 Interchange (more commonly known as the Airport Expressway) to State Road 826 (more commonly known as the Golden Glades Interchange).

10. During the week of July 6, 2008 the FDOT, by and through its agents, MCM and/or De ANGELO installed lane delineators (i.e. flexible plastic pylons more commonly known in the construction industry as "candlesticks") at 20-foot intervals in order to separate paid traffic from the slower moving free lanes, limiting access into and out of the newly constructed NOT lanes.

11. On Friday, July 11, 2008 the FDOT opened northbound traffic on the newly restriped and reconfigured roadway with lane delineators for the 95 Express.

12. The installation of the orange candlesticks confused the driving public at large and created the dilemma for drivers trying to reach their exits or, alternatively, drivers finding themselves captive in the seven mile corridor. With the average vehicle length being 15-feet, the

average driver was left with the option of moving up into and/or out of the newly constructed HOT lanes through the 20 foot space between the candlesticks.

13. Between July 11, 2008 and today, the confusion caused by the 95 Express toll lanes caused numerous traffic accidents resulting in hundreds of thousands of dollars in property damage and bodily injury.

14. On October 17, 2015, the Plaintiff, STEPHANIE BLOSSOM, lawfully operated her motor vehicle, a 2005 Honda Civic, northbound on I-95, at or near intersection NW 62nd Street, in Miami Dade County, Florida in the regular lane of traffic closest to the Express toll lanes.

15. At the above time and place, STEPHANIE BLOSSOM was traveling northbound on I-95 when a vehicle traveling northbound in the Express toll lane, exited the Express lane through a gap in the delineators, directly into the path of STEPHANIE BLOSSOM's vehicle. STEPHANIE BLOSSOM had to veer hard to the left in order to avoid crashing into the vehicle exiting the Express lane in front of her. STEPHANIE BLOSSOM was 29 weeks pregnant at the time of the crash.

16. As a direct and proximate result of the foregoing circumstances and events, STEPHANIE BLOSSOM's vehicle collided violently into the retaining wall which separates the Northbound and Southbound 95 express toll lanes and sustained severe and permanent injuries and damages, as described more particularly hereafter, all of which constitute "permanent" injuries within the meaning of Fla. Stat. §627.737 (2).

COUNT I

NEGLIGENCE OF FDOT (VICARIOUS LIABILITY)

Plaintiff, STEPHANIE BLOSSOM, re-alleges the allegations contained in paragraph through 16 above, as if set forth fully herein and further states:

17. This is a cause of action for damages by the Plaintiff, STEPHANIE BLOSSOM, against the Defendant, FDOT, under Vicarious Liability, for the negligence of its agents including but not limited to MCM and/or DeANGELO.

19. FDOT, having undertaken on an operational level to implement its planning level decision to reconfigure the northbound I-95 corridor as described above, had a duty to do so in a reasonable and careful manner, and further as owner of the subject right of way and appurtenant easements along the 95 Express corridor, owed a non-delegable duty of reasonable care to STEPHANIE BLOSSOM to properly maintain the roadway in a reasonably safe condition and to provide for the health, safety, and welfare of the driving public at large in general, and STEPHANIE BLOSSOM, in particular, when it was foreseeable that motorists would routinely drive over and/or through gaps the subject delineators to move into and/or out of the 95 Express toll Lanes.

20. In particular, FDOT, owed one or more of the following duties to the driving public at large, and STEPHANIE BLOSSOM, in particular:

- a. To install the subject lane delineators and/or component parts in a manner in which to prevent the driving public to transverse to and from the Express and local lanes of travel over the delineators in a reasonable and careful manner;
- b. To install concrete Jersey barrier walls to separate the Express and local lanes of travel;
- c. To restripe the subject corridor in a reasonable and careful manner;

- d. To reconfigure the subject corridor in a reasonable and careful manner which would maintain the width of the travel lanes and the emergency shoulder areas;
- e. To implement adequate, advanced warnings for 95 Express;
- f. To maintain the roadway in a suitable condition for travel;
- g. To exercise reasonable care to provide for the health, safety, and welfare of the driving public at large, including the Plaintiff;
- h. To close the subject northbound corridor in light of the accidents that occurred between July 11, 2008 and October 17, 2015;
- i. To adhere to all applicable codes, rules, statutes and regulations;
and
- j. Other negligence acts which are undetermined at this time.

21. Notwithstanding, its duties, FDOT through its agents, MCM and/or De ANGELO was negligent and breached its duties to the driving public at large, and to STEPHANIE BLOSSOM, in particular, in one or more of the following respects:

- a. FDOT, by and through its general contractors and subcontractors, including but not limited to DeANGELO and/or MCM failed to exercise reasonable care in the installation and maintenance of the subject lane delineators and/or component parts and installed same in a manner which allowed the driving public to transverse to and from the Express and local lanes of travel through between and over the delineators;
- b. FDOT, by and through its general contractors and subcontractors, including but not limited to MCM and/or De ANGELO failed to install concrete Jersey barrier walls to separate the Express and local lanes of travel;
- c. FDOT, by and through its general contractors and subcontractors, including but not limited to MCM and/or De ANGELO improperly restriped the subject corridor;
- d. FDOT, by and through its general contractors and subcontractors, including but not limited MCM and/or De ANGELO failed to exercise reasonable care in reconfiguring the subject corridor and

did so in a manner which narrowed the travel lanes and eliminated most of the emergency shoulder areas, thereby creating a foreseeable zone of danger to motorists, including the Plaintiff, who suddenly found themselves trapped in this configuration;

- e. FDOT, by and through its general contractors and subcontractors, including but not limited to MCM and/or De ANGELO failed to implement adequate advanced warnings for motorists using the new 95 Express;
- f. FDOT, by and through its general contractors and subcontractors, including but not limited to MCM and/or De ANGELO failed to properly prepare the subject corridor of roadway for traffic, and/or failed to maintain the roadway in a suitable condition for travel;
- g. FDOT, by an through its general contractors and subcontractors, including but not limited to MCM and/or De ANGELO failed to exercise reasonable care and provide for the health, safety, and welfare of the driving public at large;
- h. FDOT, failed to close the subject northbound corridor in light of the accidents that occurred between July 11, 2008 and October 17, 2015;
- i. FDOT, failed to adhere to all applicable codes, rules, statutes and regulations; and
- j. Other negligent acts which are undetermined at this time.

22. The dangerous and hazardous conditions aforementioned were created by FDOT, and were not readily apparent to the driving public at large in general, and to STEPHANIE BLOSSOM, in particular, who could foreseeably be seriously injured by the dangerous conditions complained of.

23. FDOT knew, or should have known of the aforementioned dangerous conditions, which were not readily apparent to the driving public at large in general and to STEPHANIE BLOSSOM, in particular. Despite said knowledge, FDOT through its general contractors and

sub-contractors including but not limited to MCM and/or De ANGELO, failed to take reasonable steps to protect and/or warn the public, including STEPHANIE BLOSSOM, from such harm.

24. As a direct and proximate result of the aforementioned acts of negligence by FDOT, through its general contractors and sub-contractors including but not limited to MCM and/or De ANGELO, the Plaintiff, STEPHANIE BLOSSOM, suffered bodily injuries, and resulting pain and suffering, disability, mental anguish as a result of her physical injuries, aggravation of pre-existing bodily conditions, loss of the capacity for the enjoyment of life, past and future expense of hospitalization, past and future medical and nursing care and treatment, loss of earnings, loss of the ability to earn money, loss of future earning capacity and other compensable damages. These losses are either permanent or continuing and Plaintiff will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, STEPHANIE BLOSSOM, a resident of Miami Dade County, Florida demands a judgment in her favor for damages, against the Defendant, FDOT, for compensatory and consequential damages in amount greater than \$15,000.00, together with costs and any other further relief this Court deems proper and just.

COUNT II

NEGLIGENCE OF FDOT (ACTIVE NEGLIGENCE)

Plaintiff, STEPHANIE BLOSSOM, re-alleges the allegations contained in paragraph 1 through 16 above, as if set forth fully herein and further states:

25. This is a cause of action for damages by the Plaintiff, STEPHANIE BLOSSOM, against the Defendant, FDOT, for negligence.

26. The FDOT, as owner of the subject right of way and appurtenant easements along the 95 Express corridor, owed a legal as well as a common-law non delegable duty of reasonable care to STEPHANIE BLOSSOM to properly maintain the roadway in a reasonably safe condition. As part of this responsibility, FDOT had an operational level duty to inspect, oversee and supervise the construction projects for which it issues permits in order to comply with its non delegable duty to provide for the health, safety, and welfare of the driving public at large, including in particular, when it was foreseeable that motorists would drive through, between or over the delineators to move into and/or out of the newly constructed Express.

27. At all times material to this Complaint, FDOT, owed one or more of the following duties to the driving public at large in general, and to STEPHANIE BLOSSOM, in particular:

- a. To retain general contractors and subcontractors that have sufficient training and competence in their respective vocations, and to relieve those general contractors and subcontractors that lacked such training and competence;
- b. To safeguard against known highway design defects when reconfiguring travel lane and emergency shoulder widths;
- c. To retain traffic engineering personnel that have sufficient training and competence in their respective vocations, and to relieve those traffic engineering personnel, that lacked such training and competence, in dealing with safeguarding against known highway design defects in reconfiguring travel lane and emergency shoulder widths and safety in routing maintenance of traffic;
- d. To implement adequate advance warnings for the new 95 Express lanes;
- e. To maintain the roadway in a suitable condition for travel;
- f. To exercise reasonable care for the health, safety and welfare of the driving public at large;
- g. To close the subject northbound corridor in light of the accidents that occurred between July 11, 2008 and October 17, 2015;

- h. To adhere to all applicable codes, rules, statutes and regulations and;
- i. Otherwise negligent acts which are undetermined at this time;

28. Notwithstanding its duties, FDOT was negligent and breached its duties to the driving public at large in general, and to STEPHANIE BLOSOM, in particular, in one or more of the following respects:

- a. Failed to retain general contractors and subcontractors that have sufficient training and competence in their respective vocations, and to relieve those general contractors and subcontractors that lacked such training and competence;
- b. Failed to safeguard against known highway design defects when reconfiguring travel lanes and emergency shoulder widths along the 95 Express corridor;
- c. Failed to retain traffic engineering personnel that have sufficient training and competence in their respective vocations, and to relieve those traffic engineering personnel, that lacked such training and competence, in dealing with safeguarding against known highway design defects in reconfiguring travel lane and emergency should widths and safety in routing maintenance of traffic along the 95 Express corridor;
- d. Failed to implement adequate advance warnings for the new 95 Express corridor;
- e. Failed to maintain the 95 Express corridor in a suitable condition for travel;
- f. Failed to exercise reasonable care for the health, safety and welfare of the driving public at large;
- g. Failed to close the subject northbound corridor in light of the accidents that occurred between July 11, 2008 and October 17, 2015;
- h. Failed to adhere to all applicable codes, rules, statutes and regulations and;
- i. Otherwise negligent acts which are undetermined at this time;

The dangerous and hazardous conditions aforementioned were created by FDOT, and were not readily apparent to the driving public at large in general, and to STEPHANIE BLOSSOM, in particular, who could foreseeably be seriously injured by the dangerous conditions complained of.

29. FDOT knew, or should have known of the aforementioned dangerous conditions, which were not readily apparent to the driving public at large in general and to STEPHANIE BLOSSOM, in particular. Despite said knowledge, FDOT failed to take reasonable steps to protect and/or warn the public, including STEPHANIE BLOSSOM, from such harm.

30. As a direct and proximate result of the aforementioned acts of negligence by FDOT, the Plaintiff, STEPHANIE BLOSSOM, suffered bodily injuries, and resulting pain and suffering, disability, mental anguish as a result of her physical injuries, aggravation of pre-existing bodily conditions, loss of the capacity for the enjoyment of life, past and future expense of hospitalization, past and future medical and nursing care and treatment, loss of earnings, loss of the ability to earn money, loss of future earning capacity and other compensable damages. These losses are either permanent or continuing and Plaintiff will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, STEPHANIE BLOSSOM, a resident of Miami Dade County, Florida demands a judgment in her favor for damages, against the Defendant, FDOT, for compensatory and consequential damages in amount greater than \$15,000.00, together with costs and any other further relief this Court deems proper and just.

COUNT III

NEGLIGENCE OF M.C.M.

Plaintiff, STEPHANIE BLOSSOM, re-alleges the allegations contained in paragraph 1 through 16 above, as if set forth fully herein and further states:

31. This is a cause of action for damages by the Plaintiff, STEPHANIE BLOSSOM, against the Defendant, M.C.M., for negligence.

32. M.C.M.'s bid was the lowest, responsive and qualified contractor solicited by the FDOT and, therefore, was approved, authorized and awarded Project Number 422796-1.

Accordingly, M.C.M. was ultimately responsible to use reasonable care for the maintenance of traffic and construction along with the 95 Express corridor, and to take steps to provide for the health, safety, and welfare of the driving public at large in general, and motorists in particular, like STEPHANIE BLOSSOM.

33. M.C.M. negligently and carelessly breached its duties in one or more of the following respects:

- a. Improperly installed and/or maintained the subject lane delineators and/or component parts in a manner in which to prevent the driving public to transverse to and from the Express and local lanes of travel over, between and over the delineators;
- b. Failed to install concrete Jersey barrier walls to separate the Express and local lanes of travel;
- c. Improperly restriped the subject corridor;
- d. Improperly reconfigured the subject corridor in a manner in which narrowed the travel lanes and eliminated most of the emergency shoulder areas;
- e. Failed to adequately, provide for advanced warnings for the new 95 Express corridor;

- f. Failed to properly prepare the subject corridor of roadway for traffic and/or failed to maintain the roadway in a suitable condition for travel;
- g. Failed to exercise reasonable care to provide for the health, safety, and welfare of the driving public at large;
- h. Failed to close the subject northbound corridor in light of the accidents that occurred between July 11, 2008 and October 17, 2015;
- i. Failed to adhere to all applicable codes, rules, statutes and regulations; and
- j. Other negligence acts which are undetermined at this time.

The dangerous and hazardous conditions aforementioned were created by MCM, and were not readily apparent to the driving public at large in general, and to STEPHANIE BLOSSOM, in particular, who could foreseeably be seriously injured by the dangerous conditions complained of.

34. M.C.M. knew, or should have known of the aforementioned dangerous conditions, which were not readily apparent to the driving public at large in general and to STEPHANIE BLOSSOM, in particular. Despite said knowledge, MCM failed to take reasonable steps to protect and/or warn the public, including STEPHANIE BLOSSOM, from such harm.

35. As a direct and proximate result of the aforementioned acts of negligence by M.C.M, the Plaintiff, STEPHANIE BLOSSOM, suffered bodily injuries, and resulting pain and suffering, disability, mental anguish as a result of her physical injuries, aggravation of pre-existing bodily conditions, loss of the capacity for the enjoyment of life, past and future expense of hospitalization, past and future medical and nursing care and treatment, loss of earnings, loss of the ability to earn money, loss of future earning capacity and other compensable damages.

These losses are either permanent or continuing and Plaintiff will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, STEPHANIE BLOSSOM, a resident of Miami Dade County, Florida demands a judgment in her favor for damages, against the Defendant, M.C.M., for compensatory and consequential damages in amount greater than \$15,000.00, together with costs and any other further relief this Court deems proper and just.

COUNT IV

NEGLIGENCE OF De ANGELO

Plaintiff, STEPHANIE BLOSSOM, re-alleges the allegations contained in paragraph 1 through 16 above, as if set forth fully herein and further states:

36. This is a cause of action for damages by the Plaintiff, STEPHANIE BLOSSOM, against the Defendant, DeANGELO, for negligence.

37. At all times material hereto, FDOT had an Asset Maintenance Contract (Contract E6197) in effect with DeANGELO. Accordingly, DeANGELO was ultimately responsible to use reasonable care for the maintenance of traffic and construction along with the 95 Express corridor, and to take steps to provide for the health, safety, and welfare of the driving public at large in general, and motorists in particular, like STEPHANY BLOSSOM.

38. DeANGELO negligently and carelessly breached its duties in one or more of the following respects:

- a. Improperly installed and/or maintained the subject lane delineators and/or component parts in a manner in which to prevent the driving public to transverse to and from the Express and local lanes of travel over, between and over the delineators;

- b. Failed to install concrete Jersey barrier walls to separate the Express and local lanes of travel;
- c. Improperly restriped the subject corridor;
- d. Improperly reconfigured the subject corridor in a manner in which narrowed the travel lanes and eliminated most of the emergency shoulder areas;
- e. Failed to adequately, provide for advanced warnings for the new 95 Express corridor;
- f. Failed to properly prepare the subject corridor of roadway for traffic and/or failed to maintain the roadway in a suitable condition for travel;
- g. Failed to exercise reasonable care to provide for the health, safety, and welfare of the driving public at large;
- h. Failed to close the subject northbound corridor in light of the accidents that occurred between July 11, 2008 and October 17, 2015;
- ii. Failed to adhere to all applicable codes, rules, statutes and regulations; and
- j. Other negligence acts which are undetermined at this time.

The dangerous and hazardous conditions aforementioned were created by DeANGELEO, and were not readily apparent to the driving public at large in general, and to STEPHANIE BLOSSOM, in particular, who could foreseeably be seriously injured by the dangerous conditions complained of.

39. DeANGELO, knew, or should have known of the aforementioned dangerous conditions, which were not readily apparent to the driving public at large in general and to STEPHANIE BLOSSOM, in particular. Despite said knowledge, FDOT failed to take reasonable steps to protect and/or warn the public, including STEPHANIE BLOSSOM, from such harm.

40. As a direct and proximate result of the aforementioned acts of negligence by DeANGELO the Plaintiff, STEPHANIE BLOSSOM, suffered bodily injuries, and resulting pain

and suffering, disability, mental anguish as a result of her physical injuries, aggravation of pre-existing bodily conditions, loss of the capacity for the enjoyment of life, past and future expense of hospitalization, past and future medical and nursing care and treatment, loss of earnings, loss of the ability to earn money, loss of future earning capacity and other compensable damages. These losses are either permanent or continuing and Plaintiff will continue to suffer losses in the future.

WHEREFORE, the Plaintiff, STEPHANIE BLOSSOM, a resident of Miami Dade County, Florida demands a judgment in her favor for damages, against the Defendant, DeANGELO, for compensatory and consequential damages in amount greater than \$15,000.00, together with costs and any other further relief this Court deems proper and just.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues so triable as a matter of right.

Dated this 3 of February, 2017.

Respectfully Submitted,

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