

C-0649-23-L

CAUSE NO. _____

**MARCO DELEON AND
BETTY DELEON,
Plaintiffs,**

VS.

**ERNESTO E. ROSILES AND
SPACE EXPLORATION
TECHNOLOGIES CORP.,
Defendants.**

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IN THE DISTRICT COURT OF

HIDALGO COUNTY, TEXAS

____ JUDICIAL DISTRICT COURT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs **MARCO DELEON AND BETTY DELEON** and file this Original Petition complaining of **ERNESTO E. ROSILES AND SPACE EXPLORATION TECHNOLOGIES CORP.**, for causes of action, Plaintiffs would show as follows:

I.

Discovery Control Plan

1. Discovery in this action is intended to be conducted under Level 3, in accordance with Rule 190.4 of the TEXAS RULES OF CIVIL PROCEDURE.

II.

Parties

2. Plaintiff **MARCO DELEON** is an individual and resident of Starr County, Texas.
3. Plaintiff **BETTY DELEON** is an individual and resident of Starr County, Texas.
4. Defendant **ERNESTO E. ROSILES** is an individual and resident of Hidalgo County, Texas. He may be served with process at his residence at 712 Roy Street, Donna, Texas 78537 or wherever he may be found.

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5. Defendant **SPACE EXPLORATION TECHNOLOGIES CORP. (“SPACEX”)** is a Delaware corporation with its principal place of business located in El Segundo, California. SpaceX may be served with process through its registered agent, Corporation Service Company dba CSC – Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, Texas 78701, or wherever it may be found.

6. Plaintiffs specifically invoke the right to institute this suit against whatever entity was conducting business using the assumed or common name of “Space Exploration Technologies Corp.” with regard to the events described in this Petition. Plaintiffs expressly invoke their right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion of any party or of the Court.

III.
Venue

7. Venue is proper in Hidalgo County, Texas, in that the Defendant resided in Hidalgo County, Texas at the time of the incident made the basis of this lawsuit.

IV.
Jurisdiction

8. This Court has jurisdiction in this matter because the damages to Plaintiffs are within the jurisdictional limits of this Court.

V.
Factual Background

9. Plaintiffs’ cause of action arises from an automobile collision that occurred on or about July 17, 2022, in Cameron County, Texas. Plaintiffs were traveling westbound on State Highway 4. Defendant Rosiles was driving a vehicle owned by Defendant SpaceX and was traveling eastbound on State Highway 4. As Plaintiffs approached, Defendant Rosiles made turned when it

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was unsafe to do so, causing a collision with the Plaintiffs' vehicle. The impact caused the Plaintiffs serious injuries.

10. Defendant SpaceX owned the vehicle Defendant Rosiles was driving. Defendant Rosiles was employed by Defendant SpaceX. Defendant SpaceX permitted Defendant Rosiles to drive the vehicle in the course and scope of his employment with them.

VI.
Causes of Action

A. Negligence and Negligence Per Se

11. Plaintiffs incorporate the preceding paragraphs of this Petition as if set forth fully below.

12. At the time of the incident, Defendant Rosiles was operating the vehicle negligently. Defendant Rosiles had a duty to exercise ordinary care and operate the vehicle reasonably and prudently. Defendant Rosiles' negligence was the proximate cause of the Plaintiffs' injuries. Defendant Rosiles breached that duty in one or more of the following ways:

- a. Failing to timely apply the brakes;
- b. Failing to turn when it was safe to do so;
- c. Failing to maintain a proper lookout;
- d. Driving the vehicle at a rate of speed greater than that at which an ordinary and prudent person would have driven under the same or similar circumstances; and
- e. Failing to operate the vehicle with the appropriate regard for the safety of all persons.

13. Each of the foregoing acts and/or omissions proximately caused the Plaintiffs' damages. Defendant Rosiles' acts also constitute negligence per se, as his actions were a direct and unexcused violation of Texas traffic laws, and the Plaintiffs are members of the class protected by those laws.

14. Defendant SpaceX employed Defendant Rosiles at the time of the incident and Defendant Rosiles was, at all relevant times, acting in the course and scope of his employment with Defendant

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SpaceX. The acts of negligence committed by Defendant Rosiles arose directly out of and were done in prosecution of the business that he was employed to do by Defendant SpaceX, who is therefore liable under the doctrine of Respondeat Superior for the negligent actions of Defendant Rosiles.

VII.
Damages Demanded from Defendants

15. At this time, the full extent of Plaintiffs' damages is not known. At the time of filing this lawsuit, Plaintiffs seek monetary relief "over \$1,000,000" in accordance with TRCP paragraph (c) (4) of R. 47, however, Plaintiffs know that, ultimately, a jury will determine the full value of damages. Plaintiffs reserve the right to amend this petition, including this provision, as the case continues.

16. Plaintiffs seek recovery of the following categories of damages from Defendants: (1) past and future physical pain; (2) past and future mental pain and anguish; (3) past and future medical expenses; (4) past and future lost wages; (5) disfigurement; (6) past and future physical impairment; (7) property damage; (8) loss of use of their vehicle; and (9) diminished value of their vehicle.

17. As a further result of Defendants' negligence and/or negligence per se as described above, Plaintiffs have incurred expenses for medical care and attention and such expenses are continuing to accrue as of the filing of this petition. All of these expenses are reasonable and customary in the localities in which they were incurred.

18. As a further result of the injuries sustained by Plaintiffs, there is a reasonable probability that Plaintiffs will require further medical care and attention and will incur future reasonable and necessary expenses for this medical care and attention.

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VIII.
Preservation of Evidence

19. Plaintiffs hereby request and demand that Defendants preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, or the damages resulting therefrom, including photographs; videotapes; audiotapes; recordings; business or medical records; bills; estimates; invoices; checks; correspondence; memoranda; files; facsimiles; email; voice mail; text messages; investigation; cellular telephone records; calendar entries; and any electronic image, data, or information related to the Plaintiffs, the referenced incident, or any damages resulting therefrom. Failure to maintain such items will constitute spoliation of the evidence.

IX.
Required Disclosure

20. Pursuant to Texas Rule of Civil Procedure 194(a), each Defendant is required to disclose, within thirty (30) days of the filing of the first answer, the information or material described in Rule 194.2(b)1-12. Any Defendant that is served or otherwise joined after the filing of the first answer must make their initial disclosures within thirty (30) days after being served or joined.

X.
Designated E-Service Email Address

21. **The following is the undersigned attorney's designated e-Service email address for all e-service documents and notices, filed and unfiled, pursuant to Tex. R. Civ. P. 21(f)(2) & 21(a): taylor@lapezejohns.com. This is the undersigned's only e-Service email address, and service through any other email address will be considered invalid.**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendants be cited to appear and answer, and that on final trial Plaintiffs have:

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