STATE OF LOUISIANA. THROUGH DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

VERSUS

HUMBERTO V. LABAUT, ORION TRUCKING, SPARTA INSURANCE COMPANY, JOE HILL, VICTOR P. BONURA ENTERPRISES, AND GEMINI INSURANCE COMPANY

NUMBER 79315 DIV. D

29th JUDICIAL DISTRICT COURT

PARISH OF ST. CHARLES

STATE OF LOUISIANA

PETITION

The petition of the State of Louisiana, through Department of Transportation & Development (hereafter referred to as "the Department"), created under and by virtue of the laws of the State of Louisiana, and domiciled in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana, respectfully represents that:

1.

Made defendants herein are:

I. **HUMBERTO V. LABAUT** (hereafter "Labaut"), a major person who was the owner/driver of the motor vehicle "2002 Freightline Conventional" on December 20, 2013;

II. **ORION TRUCKING** (hereafter "Orion"), a foreign corporation authorized to do and doing business in the State of Louisiana, who was the policy holder of the motor vehicle "2002 Freightline Conventional" on December 20, 2013;

III. **SPARTA INSURANCE COMPANY** (hereafter "Sparta Insurance"), a foreign corporation authorized to do and doing business in the State of Louisiana, who is the insurer of the motor vehicle "2002 Freightline Conventional" on December 20, 2013;

IV. **VICTORY P. BONURA ENTERPRISES** (hereafter "Bonura"), a corporation authorized to do and doing business in the State of Louisiana, who is the owner of the motor vehicle "1991 Mack Conventional" on December 20, 2013;

V. **JOE HILL** (hereafter "Hill"), a major person who was the driver of the motor

vehicle "1991 Mack Conventional" on December 20, 2013; and

VI. **GEMINI INSURANCE CO.** (hereafter "Gemini") a foreign corporation authorized to do and doing business in the State of Louisiana, who is the insurer of the motor vehicle "1991 Mack Conventional" on December 20, 2013.

2.

Petitioner shows that, based on information and belief, the above named defendants are justly and truly indebted, jointly and in solido, to your petitioner for such damages as are reasonable in the premises, together with legal interest thereon from date of judicial demand, until paid, and for all costs of these proceedings.

3.

On or about December 20, 2013, the motor vehicle "2002 Freightline Conventional", VIN #: 1FUJBBCG72LH93121, that is owned by defendant LABAUT, operated by defendant LABAUT, and insured by defendant SPARTA INSURANCE, was driving North on I-310 (near milepost 0.2 and 0.2 miles South of I-10) in the right lane in St. Charles Parish, when LABAUT changed lanes causing the "1991 Mack Conventional", VIN #: 1M2P264Y8MM008949, that was owned by defendant BONURA, operated by defendant HILL, and insured by defendant GEMINI that was in the left lane on I-310 Northbound to collide with the impact attenuator in this area, and caused damage to, a portion of the attenuator, with said attenuator and its appurtenances being under the jurisdiction of the Department and owned by the State of Louisiana.

4.

Under the laws of the State of Louisiana, the construction, maintenance, and repair of the public state highways of the State of Louisiana, and the maintenance and repair of bridges, including the subject structural damage to the Impact Attenuator, at the location referred to above, are functions of your petitioner.

5.

As a result of the accident, the Department is required to repair the structural damage to the Impact Attenuator of the subject bridge.

6.

The accident and resulting damages were caused by the negligence of defendants LABAUT and HILL in the following particular, but not necessarily exclusive respects:

1. In failing to keep a proper lookout;

2. In failing to keep proper control of said motor vehicle and failing to take the proper evasive action to avoid the resulting collision;

3. In failing to stop or slow the motor vehicle in time to avoid the resulting collision;

4. In operating said motor vehicle in a generally careless manner without due regard for the property of others; and

5. Any and all other acts and omissions which will be shown at the trial of this matter.

7.

Petitioner alleges on information and belief that at the time of the accident sued upon, defendant HILL was employed by, or on a mission for defendant BONURA, or in the alternative, was in charge of operating the motor vehicle ("1991 Mack Conventional") involved in said accident with the authorization, permission, and consent of defendant BONURA. Petitioner also alleges on information and belief that at the time of the accident sued upon, defendant GEMINI was the insurer of the "1991 Mack Conventional" being operated by defendant HILL.

8.

Petitioner alleges on information and belief that at the time of the accident sued upon, defendant LABAUT was employed by, or on a mission for defendant ORION, or in the alternative, was in charge of operating the motor vehicle ("2002 Freightline Conventional") involved in said accident with the authorization, permission, and consent of defendant ORION. Petitioner also alleges on information and belief that at the time of the accident sued upon, defendant SPARTA INSURANCE was the insurer of the "2002 Freightline Conventional" being operated by defendant LABAUT.

9.

Under the provisions of La. R.S. 13:4521, petitioner herein is entitled to file and prosecute this suit without the payment of costs of Court in advance or as the same accrue and

without the necessity of advancing costs, bond, or surety therefore.

10.

Petitioner alleges amicable demand has been made to no avail.

WHEREFORE, petitioner prays that:

1. A certified copy of the above and foregoing pleading be served upon the defendants and they be cited to appear and defend this lawsuit; and
2. After all legal delays have expired and due proceedings had, there be judgment herein in favor of petitioner, the DEPARTMENT, and against the defendants, HUMBERTO V. LABAUT, ORION TRUCKING, SPARTA INSURANCE COMPANY, JOE HILL, VICTOR P. BONURA ENTERPRISES, and GEMINI INSURANCE COMPANY for such damages as are reasonable in the premises, together with legal interest thereon from date of judicial demand, until paid, for all costs of these proceedings.

RESPECTFULLY SUBMITTED:

LOUISIANA DEPARTMENT OF
TRANSPORTATION & DEVELOPMENT
OFFICE OF THE GENERAL COUNSEL

BY: _____
OF COUNSEL

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PLEASE SERVE:

VIA LONG ARM STATUTE

1. Humberto V. Labaut
   16920 NW 54th Ave.
   Miami Gardens, FL 33055

2. Orion Trucking,
   through its agent for service of process,
   Aysel Labaut,
   16920 NW 54th Ave.
   Miami Gardens, FL 33055

3. Sparta Insurance Company,
   through its agent for service of process,
   Secretary of State, State of Louisiana

4. Joe Hill
   1448 Myrtle Street
   Metairie, LA 70003

5. Victor P. Bonura Enterprises,
   through its agent for service of process,
   Victor P. Bonura,
   20 Hermitage Court
   Destrehan, LA 70047

6. Gemini Insurance Company,
   through its agent for service of process,
   Secretary of State, State of Louisiana

I CERTIFY THAT THE WITHIN
IS A TRUE COPY OF THE
ORIGINAL ON THIS OFFICE
CLERK OF COURT
ST. CHARLES PARISH