STATE OF LOUISIANA, THROUGH DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

VERSUS

VICTOR ALMAZAN, III, MICHAEL GOMEZ, GAINSCO AUTO INSURANCE/ LIBERTY MUTUAL INSURANCE CO, ESP TRANSPORTATION L.L.C., NATIONAL CASUALTY/COLONIAL INSURANCE CO. AND ALFRED A. McCOY

NUMBER_____ DIV.___

40th JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

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. **VICTOR ALMAZAN, III** (hereafter "Almazan"), a major person who was the owner of the motor vehicle "2004 Jeep Cherokee" on October 14, 2013;

II. **MICHAEL GOMEZ** (hereafter "Gomez"), a major person who was the driver of the motor vehicle "2004 Jeep Cherokee" on October 14, 2013;

III. **GAINSCO AUTO INSURANCE/LIBERTY MUTUAL INSURANCE CO.** (hereafter "Liberty Mutual"), a foreign corporation authorized to do and doing business in the State of Louisiana, who is the insurer of the motor vehicle "2004 Jeep Cherokee" on October 14, 2013;

IV. **ESP TRANSPORTATION, L.L.C.** (hereafter "ESP Transportation"), a foreign corporation authorized to do and doing business in the State of Louisiana, and who was the owner of the motor vehicle "2007 International Conventional" on October 14, 2013;

V. **NATIONAL CASUALTY/COLONIAL INSURANCE CO.** (hereafter

"Colonial") a foreign corporation authorized to do and doing business in the State of Louisiana, who is the insurer of the motor vehicle "2007 International Conventional" on October 14, 2013; and

VI. **ALFRED A. McCOY** (hereafter "McCoy"), a major person who was the driver of the motor vehicle "2007 International Conventional" on October 14, 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 October 14, 2013, the motor vehicle "2004 Jeep Cherokee", VIN #: 1J8GW48N54C404798, that is owned by defendant ALMAZAN, operated by defendant GOMEZ, and insured by defendant LIBERTY MUTUAL, was driving the wrong way on I-10 westbound (Milepost 210.6) over the Bonnet Carre Spillway in St. John the Baptist Parish, causing the "2007 International Conventional", VIN #: 2HSCNAPR47C390409, that was owned by defendant ESP TRANSPORTATION, operated by defendant McCOY, and insured by defendant COLONIAL to collide with the right bridge rail in this area, and caused damage to, a portion of the guardrail/bridge rail along with fiber optic cable, conduit and conductor, with said guardrail/bridge rail, fiber optic cable, conduit, and conductor 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 Right Bridge Rail/Fiber Optic Cable, 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 Right Bridge Rail/Fiber Optic Cable of the subject bridge.

6.

The accident and resulting damages were caused by the negligence of defendants GOMEZ and McCOY 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 McCOY was employed by, or on a mission for defendant ESP TRANSPORTATION, or in the alternative, was in charge of operating the motor vehicle ("2007 International Conventional") involved in said accident with the authorization, permission, and consent of defendant ESP TRANSPORTATION. Petitioner also alleges on information and belief that at the time of the accident sued upon, defendant COLONIAL was the insurer of the "2007 International Conventional" being operated by defendant McCOY.

8.

Petitioner alleges on information and belief that at the time of the accident sued upon, defendant GOMEZ was employed by, or on a mission for defendant ALMAZAN, or in the alternative, was in charge of operating the motor vehicle ("2004 Jeep Cherokee") involved in said accident with the authorization, permission, and consent of defendant ALMAZAN. Petitioner also alleges on information and belief that at the time of the accident sued upon, defendant LIBERTY MUTUAL was the insurer of the "2004 Jeep Cherokee" being operated by defendant GOMEZ.

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, VICTOR ALMAZAN, III, MICHAEL GOMEZ, GAINSCO AUTO INSURANCE/LIBERTY MUTUAL INSURANCE CO, ESP TRANSPORTATION L.L.C., NATIONAL CASUALTY/COLONIAL INSURANCE CO. AND ALFRED A. McCOY 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. Victor Almazan, III
   3 Perthius Dr.
   LaMarque, TX 77568

2. Michael Gomez
   6151 Boxwood St.
   Pearland, TX 77581

3. Alfred A. McCoy
   105 David Rd.
   Hampton, GA 30228

4. ESP Transportation, LLC,
   through its agent for service of process,
   Tim Stuart,
   3103 Cobb Parkway NW, Suite 117
   Kennesaw, GA 30152

5. Gainsco Auto Insurance/Liberty Mutual Insurance Company,
   through its agent for service of process,
   Secretary of State, State of Louisiana

6. National Casualty/Colonial Insurance Company,
   through its agent for service of process,
   Secretary of State, State of Louisiana