

CAUSE NO. 2008-32286

DANIEL SANDOVAL
AND PEDRO RAMIREZ,
Plaintiffs,

vs.

EMILIO, INC.,
Defendant.

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IN THE DISTRICT COURT
151st JUDICIAL DISTRICT
HARRIS COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME, DANIEL SANDOVAL and PEDRO RAMIREZ, and file this their Plaintiffs' Original Petition complaining of Defendant, EMILIO, INC., and would respectfully show to this Honorable Court as follows:

**I.
DISCOVERY CONTROL PLAN**

1.1 Pursuant to Rule 190 of the Texas Rules of Civil Procedure, Plaintiffs state that they intend to conduct discovery in this case under Level 3, Rule 190.4 "Discovery Control Plan – By Order" of the Texas Rules of Civil Procedure.

**II.
PARTIES**

2.1 Plaintiff DANIEL SANDOVAL is a citizen and resident of Austin, Travis County, Texas.

2.2 Plaintiff PEDRO RAMIREZ is a citizen and resident of San Benito, Cameron County, Texas.

2.3 Defendant EMILIO, INC., is a Texas Corporation authorized to do business in the State of Texas, whose principal place of business is P.O. Box 541198, San

Antônio, Texas 78224-8198 and may be served through its registered agent for service, Emilio H. Navaira, III, 719 W. Vestal, Suite E, San Antonio, Texas 78221.

III. **VENUE AND JURISDICTION**

3.1 Venue is proper in Harris County, Texas, pursuant to Texas Civil Practices and Remedies Code §§ 15.002(a)(1), in that it is the county in which all or a substantial portion of the events or omissions that gave rise to the claim occurred.

3.2 The amount sought herein exceeds the minimum jurisdictional limits of the Court.

3.3 Although Plaintiffs seek an amount in excess of \$75,000.00, federal courts lack jurisdiction over this action because it is between Plaintiffs and Defendant who are from the same state. Further, every claim arising under the Constitution, treaties, or laws of the United States is expressly disclaimed (including any claim arising from an act or omission on a federal enclave, or of any officer of the U.S. or any agency or person acting under him occurring under color of such office). No claim of admiralty or maritime law is raised. Plaintiff sues no foreign state or agency. Removal would, therefore, be improper.

IV. **RELEVANT FACTS**

4.1 On or about March 23, 2008, Daniel Sandoval and Pedro Ramirez were passengers in a travel bus, Texas license plate number U84867, and which is owned and operated by Defendant, Emilio, Inc. Plaintiffs are members of Grupo Rio and were on their way back home from playing a concert at Hallabaloos Nightclub in South Houston. Unfortunately, the driver of the bus, an employee, servant and/or agent of Defendant who at all applicable times was acting in the course and scope of his

employment for Defendant, was intoxicated well beyond the legal limit to operate a vehicle, was not licensed or properly trained, and was not properly rested to drive that night.

4.2 At the time of the accident, the subject bus was traveling northbound on IH610 approaching the exit ramp of US 59. At the exit ramp to US 59 is a set of 9 crash barrels in front of a "V" shaped guard rail with a concrete barrier and concrete block that separated IH610 from the ext ramp to US 59. Because of the driver's intoxication, lack of rest and lack of training, he violently collided with the set of 9 crash barrels.

4.3 As a consequence of the incident in question Daniel Sandoval sustained severe injuries from which he is still recovering and Plaintiffs' damages. The injuries to Daniel Sandoval have left him physically debilitated and in severe physical and emotional pain. Daniel Sandoval and his family are very close and have suffered due to his injuries. They have suffered the loss of his earning capacity now and in the future.

4.4 As a consequence of the incident in question Pedro Ramirez sustained severe injuries from which he is still recovering and Plaintiffs' damages. The injuries to Pedro Ramirez have left him physically debilitated and in severe physical and emotional pain. Pedro Ramirez and his family are very close and have suffered due to his injuries. They have suffered the loss of his earning capacity now and in the future.

V. NEGLIGENCE

5.1 Defendant by and through its agents, servants, and/or employees committed various acts and/or omissions constituting negligence and negligence *per se*.

5.2 Defendant's wrongful conduct and negligence was a proximate cause of the occurrence in question and the injuries to Plaintiffs and the damages suffered by their families.

5.3 Said negligence includes the negligent operation of the motorbus vehicle, including but not limited to: respondeat superior for the conduct of an agent, servant, and/or employee while in the course and scope of his employment for Defendant, including driving at an unsafe speed, failing to keep a proper lookout, driving while intoxicated, driving without being properly rested, failing to control the vehicle, and improper evasive action, negligent entrustment of the subject bus to the unlicensed and untrained employee driver, negligent hiring of the employee driver and negligent retention of the employee driver.

VI. **DAMAGES**

A. Damages of Daniel Sandoval

6.1 As a result of the incident in question, Daniel Sandoval has suffered serious, permanent and disabling injuries, which have resulted in damages to him both in the past and in the future, including physical pain and suffering, mental anguish, disfigurement, physical impairment, lost wages, loss of earning capacity and reasonable and necessary expenses for medical, rehabilitation, nursing and attendant care for which recovery is sought herein in an amount in excess of the minimal jurisdictional limits of the Court.

B. Damages of Pedro Ramirez

6.3 As a result of the incident in question, Pedro Ramirez has suffered serious, permanent and disabling injuries, which have resulted in damages to him both in the past and in the future, including physical pain and suffering, mental anguish, disfigurement, physical impairment, lost wages, loss of earning capacity and reasonable and necessary expenses for medical, rehabilitation, nursing and attendant care for

• which recovery is sought herein in an amount in excess of the minimal jurisdictional limits of the Court.

VII.
PRE-JUDGMENT AND POST-JUDGMENT INTEREST

7.1 Plaintiffs seek pre-judgment and post-judgment interest at the highest rate allowed by law.

VIII.
JURY DEMAND

8.1 Plaintiffs respectfully demand a trial by jury and tender the appropriate fee herein.

IX.
REQUESTS FOR DISCLOSURE

9.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is hereby requested to disclose, within fifty (50) days of service of this request, the information or material described in Texas Rules of Civil Procedure 194.2(a)-(k).

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that judgment be rendered against Defendant EMILIO, INC., in a sum in excess of the minimal jurisdictional limits of this Court, costs of court, pre-judgment and post-judgment interest and for all other relief at law or in equity, to which they may show themselves lawfully and justly entitled.

Respectfully submitted,

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DAVID L. JONES

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ATTORNEY FOR PLAINTIFF,
PEDRO RAMIREZ



THERESA CHANG DISTRICT CLERK

ACTION: PERSONAL INJURY - AUTO CASE: C-200832286 TRANS NO: 8147500 COURT: 151
STYLE PLT: SANDOVAL, DANIEL
DEF: EMILIO INC

FEE	DESCRIPTION	QTY	AMOUNT	PAYMENT 1	PAYMENT 2	TX ONLINE - AMERICAN	
100	FILING NEW CASE	1	50.00				318.50
121	CITATION WITH 1 COPY	1	8.00				-----
195	SECURITY SERVICE FEE	1	5.00	AMOUNT TENDERED:			318.50
198	DC RECORDS PRESERVAT	1	5.00	TOTAL AMOUNT:			318.50
199	RECORD PRESERVATION	1	5.00	AMOUNT APPLIED:			318.50
298	SERVICE COPIES	6	1.50				
350	CONSTABLE	1	65.00	CHANGE:			.00
450	JUDICIAL FILING FEE-	1	50.00				
452	LEGAL SRVC FEE-CIVIL	1	10.00	RECEIVED JONES, DAVID LESLY			(24002370)
453	SUPPORT OF JUDICIARY	1	42.00	OF 500 N. SHORELINE 1020 NTOWE			
475	LAW LIBRARY	1	15.00	CORPUS CH, TX 78471			
500	JURY FEE (51.604 GOV	1	20.00	THREE HUNDRED EIGHTEEN DOLLARS AND 50/100***** DOLLARS			
502	JURY FEE (RULE 216 T	1	10.00	PAYMENT DATE: 05/27/2008	FILE DATE: 05/27/2008		
525	STENO FEE	1	15.00				
601	DISPUTE RESOLUTION P	1	10.00				
775	APPELLATE JUDICIAL P	1	5.00				
987	E-FILING CCARD CONVE	1	2.00				

ASSESSED BY: BATES, SHIRLEY V
VALIDATED 05/28/2008 BY: BRANTLEY, FURSHILLA

MENO: ED101J015219539

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VALIDATED 05/28/2008 BY: BRANTLEY, FURSHILLA

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FILE COPY



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I, Theresa Chang, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this _____

Certified Document Number: _____

THERESA CHANG, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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