

**DARRICK LIVAS, SR., DARRICK  
LIVAS, JR., CANTRELL LIVAS  
AND DERRICK WALKER**

**CIVIL ACTION NO. \_\_\_\_\_**

**Plaintiff,**

**VERSUS**

**JUDGE:**

**ACE AMERICAN INSURANCE  
COMPANY, HEARTLAND EXPRESS INC.  
OF IOWA and RYAN PAHLKOTTER**

**MAGISTRATE JUDGE:**

**Defendants.**

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**NOTICE OF REMOVAL**

**NOW INTO COURT**, through undersigned counsel, come Defendants, **HEARTLAND EXPRESS, INC. OF IOWA** (“Heartland) and **ACE AMERICAN INSURANCE COMPANY** (“Ace”) who respectfully represent as follows:

1.

Heartland and Ace hereby remove this case from the Civil District Court for the Parish of Orleans, State of Louisiana, to the United States District Court for the Eastern District of Louisiana.

2.

This suit was filed in the Civil District Court for the Parish of Orleans, State of Louisiana, on March 2, 2012, by Plaintiffs Darrick Livas, Sr., Darrick Livas, Jr., Cantrell Livas, and Derrick Walker (hereinafter collectively referred to as “Plaintiffs”) against Defendants Ace, Heartland and Ryan Pahlkotter (hereinafter collectively referred to as “Defendants”). Heartland was served with process via the Louisiana Long Arm Statute on or about March 13, 2008; Ace was served with process on or about March 19, 2008. See Exhibit “A,”

Service Return.

3.

This Notice of Removal is timely filed as it is being filed within thirty (30) days after Defendants' receipt of the initial pleading setting forth the claims for relief and within thirty (30) days of service of process as required by 28 U.S.C. § 1446(b).

4.

This action is one of a civil nature, alleging the fault and neglect of Defendants relative to the alleged injuries to Plaintiffs on May 16, 2011. A copy of the Petition for Damages is attached hereto as Exhibit "B."

5.

This Court has original jurisdiction over this action under the provisions of 28 U.S.C. § 1332 (diversity). This action may therefore be removed to this Court by the Defendants pursuant to 28 U.S.C. § 1441, in that the matter in controversy, exclusive of interest and costs, exceeds the sum of \$75,000, and is between citizens of different states.

6.

As shown in the plaintiffs' Petition for Damages, Plaintiffs, at all relevant times, were citizens of the State of Louisiana.

7.

Heartland is a corporation organized under the laws of Iowa, with a principal place of business in Iowa. Ace American Insurance Company is organized under the laws of Pennsylvania with its principal place of business in Pennsylvania.

8.

Ryan Pahlkotter is a natural person, who plaintiffs have alleged to be domiciled in the

state of Florida; however, Mr. Pahlkotter has not been served with suit.

9.

As shown above, complete diversity of citizenship exists between plaintiff and defendants.

10.

Plaintiffs allege in Paragraph V of their Petition that they sustained the following injuries:

- A. Plaintiff, Darrick Livas, Sr. claims to have suffered herniated cervical and lumbar discs, and acute left shoulder strain;
- B. Plaintiff, Darrick Livas, Jr. claims to have suffered acute lumbar muscle strain, acute bilateral wrist strain, and acute cervical muscle strain;
- C. Plaintiff Cantrell Livas claims to have suffered acute left trapezius strain, cervical strains and sprain, upper and lower extremity strain and a herniated cervical disc;
- D. Plaintiff Derrick Walker claims to have suffered acute right flank strain, acute left shoulder strain, acute post-traumatic cephalgia, meniscus tear in left knee, acute trapezius strain, and acute cervical strain.

11.

In addition, Plaintiffs allege in Paragraph VI of their Petition that they have sustained past and future medical expenses, drugs, hospitalization, medical care, pain and suffering and residual disability.

12.

Although Defendants deny all liability to Plaintiffs and specifically reserve all rights, defenses, objections, exceptions, and affirmative defenses, Plaintiff's claimed damages exceed the sum of \$75, 000, exclusive of interest and costs.

13.

In view of the foregoing, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity) and the action is properly removed pursuant to 28 U.S.C. § 1441(a).

**WHEREFORE**, defendants **ACE AMERICAN INSURANCE COMPANY** and **HEARTLAND EXPRESS, INC.** of Iowa pray for removal of this suit from the Civil Judicial District Court for the Parish of Orleans, State of Louisiana, to the United States District Court for the Eastern District of Louisiana

Respectfully Submitted by:

**DONOHUE PATRICK, P.L.L.C.**

/s/ Heather A. Cross

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*Attorneys for Heartland Express, Inc. of Iowa and  
Ace America Insurance Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of April, 2012, I electronically filed the foregoing Notice of Removal with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants and have this same day forwarded a copy of this filing to all non-CM/ECF participants, if applicable.

/s/ Heather A. Cross