

IN THE IOWA DISTRICT COURT IN AND FOR FLOYD COUNTY

THOMAS HOUDEK AND DIANE HOUDEK,)	
AS ADMINISTRATORS OF THE ESTATE)	CASE NO. _____
OF THOMAS JOHN ARTHUR HOUDEK,)	
)	
Plaintiffs,)	
)	
vs.)	PETITION AT LAW
)	WRONGFUL DEATH
STATE OF IOWA AND VARIOUS UNNAMED)	
STATE EMPLOYEES OF THE IOWA)	
DEPARTMENT OF TRANSPORTATION,)	
)	
Defendants.)	

COME NOW Plaintiffs Thomas Houdek and Diane Houdek, as Administrators of the Estate of Thomas John Arthur Houdek, and for their cause of action state:

I. FACTUAL ALLEGATIONS

1. That Plaintiffs Thomas Houdek and Diane Houdek are the duly appointed, qualified and acting Administrators of the Estate of Thomas John Arthur Houdek, deceased, and said estate is being probated in the District Court of Iowa in and for Floyd County, designated Probate No. ESPR018219.

2. That proper agent for service of the Defendants under Iowa Code §669.4 is the Attorney General State of Iowa, State Tort Claims Division, 1305 E. Walnut Street, Hoover Building, 2nd Floor, Des Moines, Iowa 50319.

3. That this action complies, in all respects, with Iowa Code §669.13 as it is brought within six (6) months of the date of the denial of the Plaintiffs' claim by the State Appeal Board on August 6, 2018.

4. That on or about July 17, 2016, Thomas John Arthur Houdek, was driving a 2004 Harley Davidson motorcycle, which he owned, crossing Highway 18 from Quarry Avenue and onto Highway 218/Quarry Avenue/Monroe Street northbound outside of the town of Floyd in Floyd County, Iowa.

5. That Thomas John Arthur Houdek crossed the eastbound lane of Highway 18/27 and stopped his motorcycle at the stop sign in the median intersection between the eastbound and westbound lanes of Highway 18/27.

6. That all said Highways 18, 218, and 27 were owned, controlled, designed, maintained, and constructed by the State of Iowa.

7. That on or about July 17, 2016, Joshua Holden Brood was driving a 2001 Peterbilt semi-truck, owned by Rooney Transport, Inc., traveling westbound on Highway 18/27, approaching the intersection with Highway 218/Quarry Avenue/Monroe Street near the town of Floyd in Floyd County, Iowa.

8. That at approximately 5:17 p.m. on July 17, 2016, the motorcycle driven by Thomas John Arthur Houdek pulled out from the median to cross the westbound lane of Highway 18/27 and was struck by the semi-truck driven by Joshua Holden Brood.

9. That Thomas John Arthur Houdek died as a result of the motor vehicle accident described herein.

10. That the Defendant(s) filmed the Plaintiff, Thomas John Arthur Houdek's, death as part of a study/examination/inspection of this dangerous intersection, which was the reason why it was being studied/filmed.

11. At all times material hereto, Defendant State of Iowa was responsible for the maintenance, supervision, condition, safety, construction, and design of the intersections of Highway 18/Quarry Avenue/Monroe Street and Highway 218/27.

12. At all times there were employees, unnamed, employed by the Iowa Department of Transportation that had responsibilities/duties for maintenance, supervision, condition, safety, construction, and design to ensure the safety of the intersection of Highways 18 and 218.

13. That at all times material hereto, the condition of the intersection of Highway 18/27 and Highway 218/Quarry Avenue/Monroe Street was unreasonably dangerous and was known to be so by the State and its employees.

II. NEGLIGENCE

COME NOW Thomas Houdek and Diane Houdek, Administrators on behalf of the Estate of Thomas John Arthur Houdek, and for cause of action against the Defendant, state:

14. That Plaintiffs incorporate paragraphs 1 through 13 of Factual Allegations as though fully and completely set forth herein.

15. That Defendant State of Iowa and its responsible employees negligently breached its duty of reasonable care of providing safety to Thomas John Arthur Houdek in the following respects:

- a. Failing to design an intersection which was safe and free of design defects;
- b. Failing to warn and safeguard the public of the dangerous conditions of this intersection;
- c. Failing to maintain signage in such a way that the signs are not misleading, exacerbating the dangerous condition, and causing confusion;

- d. Failing to provide supervision of a dangerous intersection under its statutory duty to maintain the roadway by creating an imminent danger on a public roadway;
- e. Failing to take reasonable precautions and safety measures, under the circumstances, to protect the public from the hazards caused by this intersection; and
- f. Abandoning without supervision the site and failure to warn of the known danger posed by this intersection.
- g. Failing to provide ordinary care of the duty to provide a safe intersection, which was apparent because of the video-taping of the intersection, and signs should have been posted both lowering speed and identifying to the public what had been determined by the DOT that the intersection was under evaluation and dangerous conditions present, such as flashing warning lights and signs that have been posted at other dangerous intersections, including, but not limited to: **“Intersection Ahead Multiple Fatalities Use Caution”, “Trucks Entering Exiting Highway”, “Watch for Entering Traffic”, “Watch for Approaching Traffic”, “Cross Traffic Does Not Stop”, and “Recheck Cross Traffic Before Proceeding”, “Warning Dangerous Intersection - Use Caution”, “Speed Reduced from 65 to 55”, “Warning Dangerous Intersection Under Study”, “Notice – Intersection Being Filmed – Caution”, “Video Cameras in Use”, blinking warning lights, and painting the intersection to highlight the danger by allowing no changing of lanes and painting a lower speed limit on the road, as well as signage.**
- h. Failure to maintain the signage so as not to be confusing. Instead of warning the public, the signage that was present gave a false impression that the intersection was normal and customary, which it was not.

16. The negligence of Defendant State of Iowa and its employees proximately caused the damages set forth herein and created a trap for the public.

17. That as a proximate result of the negligence of the Defendants, the Estate of Thomas Arthur Houdek has been damaged.

18. Plaintiff Estate of Thomas John Arthur Houdek’s damages include, but are not limited to:

- a. Physical and mental pain and suffering from the time of the injury to the time of his death;
- b. Interest on and costs of the burial and funeral expenses for Thomas John Arthur Houdek;
- c. Loss of enjoyment of life and personal activities; and
- d. Present value of the loss of accumulation to the value of the Estate of Thomas John Arthur Houdek.

19. That the amount in controversy exceeds the jurisdictional limitations.

WHEREFORE, the Plaintiffs Thomas Houdek and Diane Houdek, Administrators of the Estate of Thomas John Arthur Houdek, demand judgment against the Defendant State of Iowa and its unnamed employees in an amount equal to the estate's actual damages in full, plus interest as provided for by law and for the costs of this action.

III. GROSS NEGLIGENCE

COME NOW Thomas Houdek and Diane Houdek, Administrators on behalf of the Estate of Thomas John Arthur Houdek, and for cause of action against the Defendant, state:

20. That Plaintiffs incorporate paragraphs 1 through 19 of Sections I and II as though fully and completely set forth herein, as also embracing a higher degree of negligence, recognized by statute, and representing an extreme departure from the ordinary standard of care.

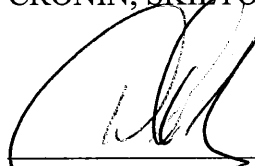
21. That gross negligence is further evidenced by and through the fact that the State knew of the defects in its design, the danger to the public, and its wanton failure to communicate between its divisional department structure which, effectively, created a trap to the public.

WHEREFORE, the Plaintiffs Thomas Houdek and Diane Houdek, Administrators of the Estate of Thomas John Arthur Houdek, demand judgment against the Defendant State of Iowa and its unnamed employees in an amount equal to the estate's actual damages in full, plus interest as provided for by law and for the costs of this action.

IV. DEMAND FOR JURY TRIAL

Plaintiffs hereby make demand to have this matter heard before a jury.

CRONIN, SKILTON AND SKILTON, P.L.L.C.



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ATTORNEY FOR PLAINTIFFS

STATE OF IOWA)
)ss.
COUNTY OF Floyd)

We, Thomas Houdek and Diane Houdek, as Administrators of the Estate of Thomas John Arthur Houdek, being first duly sworn on oath, depose and state that we are the Plaintiffs in the above-entitled Petition, and that we have read the foregoing Petition, and state that the statements and allegations contained therein are true and correct as we verily believe.

Thomas Houdek
THOMAS HOUDEK, as Administrator of the
Estate of Thomas John Arthur Houdek

Diane M. Houdek
DIANE HOUDEK, as Administrator of the
Estate of Thomas John Arthur Houdek

Subscribed, sworn to and acknowledged before me by the above-named, Thomas Houdek and Diane Houdek, as Administrators of the Estate of Thomas John Arthur Houdek, this 20th day of December, 2018.

Angela M. Gallup
NOTARY PUBLIC, STATE OF IOWA

