

IN THE COUNTY COURT OF PEARL RIVER COUNTY, MISSISSIPPI

BRJ, INC.

PLAINTIFF

VS.

CIVIL ACTION NO.:CO2015-0218

**X-STREAM CLEAN
PRESSURE WASHING, LLC**

DEFENDANT

AMENDED COMPLAINT

BRJ, Inc. ("Plaintiff") files this Complaint against X-Stream Clean Pressure Washing, LLC ("Defendant" or "X-Stream") for Negligence, Breach of Contract, Trespass and Intentional Trespass and would show unto this Honorable Court the following:

Parties

1. Plaintiff is a Mississippi Corporation with its principal place of business at 7048 Highway 49 North, Hattiesburg, Mississippi 39402.
2. Defendant X-Stream Clean Pressure Washing, LLC is a Mississippi Limited Liability Company with its principal place of business in Hattiesburg, Mississippi. X-Stream Clean may be served *via* its registered agent, Timothy D. Crosby at 121 Burnt Bridge, Hattiesburg, Mississippi 39401.

Jurisdiction and Venue

3. Jurisdiction is proper in the County Court of Pearl River County, Mississippi because it is a tort action, and County Court is the Court of general jurisdiction.
4. Venue is proper in this Court pursuant to Miss. Code Ann. §11-11-3.

Facts

5. Defendant is in the business of pressure washing trucks for Plaintiff and has done so on a regular basis for the past several years. Pursuant to that arrangement, on or about January 25, 2015,

Defendant was at its scheduled appointment for the Plaintiff's Picayune terminal to wash Plaintiff's trucks and trailers. One of those trucks was a Freightliner Coronado, Vin # 1FUJGNDR1CDBF1388 which was identified as Truck 12 (hereinafter "Truck 12").

6. Defendant owed Plaintiff the duty to perform the truck washing in a reasonable and workmanlike manner with due care; however, Defendant breached that duty.

7. On January 26, 2015, after Defendant had pressure washed Truck 12, the driver of Truck 12 started the engine which immediately began to "rev up" to maximum RPMs. The driver turned off Truck 12, but it took almost a minute for Truck 12 to shut down. Because Truck 12 was experiencing significant operational problems, a subsequent attempt made to start the engine failed.

8. The driver immediately reported these problems to the terminal manager regarding Truck 12's problems. Defendant immediately contacted a service technician with High Gear Onsite Repair to conduct a road call/on site inspection.

9. On January 26, 2015, the High Gear on-call technician determined that Truck 12's engine problems were caused by a pressure washer that had been used too close to the truck's engine and some of its components. Defendant's conduct resulted in damages to the ECM, significant internal issues with the engine, and other problems.

10. Truck 12 had to be towed to High Gear's shop in Biloxi for further examination and testing, additional problems were discovered. Plaintiff paid High Gear a total of \$13,324.65 for certain necessary parts, labor, towing, and repairs related to Truck 12's fuel injectors, ECM, and dip stick tube which had been ruined by the pressure washing (**Exhibit 1, Paid Invoice**). However, the damage to the engine was so severe that a replacement rebuilt engine was required to be installed by High Gear at an additional estimated cost of \$41,928.20 (**Exhibit 2**); however to obtain and rebuild the engine would have taken an additional six weeks. Therefore, Defendant purchased a

replacement vehicle effective May 30, 2015.

11. Truck 12 was inoperable between January 25, 2015 (the day of the cleaning) through May 30, 2015, and Plaintiff was not able to use it in the normal course of its business – resulting in damages for loss of use. The loss of use has a value of \$1,000 per week for a total lost use of \$18,000.00. (**Exhibit 3**).

12. As a direct and proximate result of Defendant’s breach of duty to Plaintiff, Defendant caused the damage to and loss of use of Truck 12 in the amount of \$73,252.85.

Count I - Negligence

13. Plaintiff incorporates and re-alleges all previous paragraphs set out herein.

14. As a result of the direct and proximate cause of the negligence of the Defendant, Plaintiff’s Truck 12 incurred damages and Plaintiff is unable to use said truck in the course and scope of its business.

15. Plaintiff demands judgment against the Defendant for an amount of special and compensatory damages to be determined by the Court. Plaintiff seeks all costs and expenses for the repair of Truck 12 and for its loss of use while being repaired. Plaintiff also seeks all costs of the court, pre-judgment interest after demand, post-judgment interest and all other relief allowed by law.

Count II - Breach of Contract

16. Plaintiff incorporates and re-alleges all previous paragraphs set out herein.

17. Defendant’s conduct in failing to perform washing services in a good, reasonable, and workmanlike manner constitutes a Breach of Contract.

18. Plaintiff demands judgment against the Defendant for an amount of special and compensatory damages to be determined by the Court. Plaintiff seeks all costs and expenses for the repair of Truck 12 and for its loss of use while being repaired totaling \$73,252.85. Plaintiff also

seeks all costs of the court, pre-judgment interest after demand, post-judgment interest and all other relief allowed by law.

Count III- Trespass and Intentional Trespass

19. Plaintiff incorporates and re-alleges all previous paragraphs set out herein.
20. Defendant intentionally sprayed high power water directly onto the engine and other sensitive components on the truck.
21. Defendant's actions constitute Trespass and Intentional Trespass upon property of the Plaintiff.
22. Therefore, Plaintiff is entitled to all nominal and actual damages, which include attorney's fees proven at trial.

Count IV- Attorney's Fees

23. Plaintiff incorporates and re-alleges all previous paragraphs set out herein.
24. As a result of Defendant's intentional acts above, Plaintiff is entitled to reasonable attorney's fees.

Respectfully submitted, this the 2nd day of July, 2018.

BRJ, INC., PLAINTIFF

/s/ Samuel S. McHard
SAMUEL S. McHARD, MSB # 100295

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CERTIFICATE OF SERVICE

I, the undersigned counsel, do hereby certify that I have electronically filed the foregoing with the Clerk of Court using the MEC system, which will send notification of such filing to all counsel of record.

This the 2nd day of July, 2018.

/s/ Samuel S. McHard
SAMUEL S. McHARD, MSB #100295