

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

BENJAMIN XAVIER XXXX, JR.,  
and TARA XXXX,

Plaintiffs

vs.

CHRIS M. ADAMS,

Defendant

**SETTLED**  
**\$390,000.00**

CIVIL ACTION

FILE NO.:

**COMPLAINT FOR DAMAGES**

COME NOW BENJAMIN XAVIER XXXX, JR. and TARA XXXX, and file this their  
Complaint for Damages against Chris M. Adams and show the Court as follows:

1.

Defendant is a resident of Fulton County, Georgia, and is subject to the jurisdiction and  
venue of this Court. Defendant can be served at her residence at located at 235 Skulley Drive,  
Alpharetta, Fulton County, Georgia 30004-6663.

2.

On October 19, 2011, at approximately 6:13 a.m., Plaintiff Benjamin Xavier XXXX, Jr.  
was operating a 2007 Ford F100 southbound in the left lane of I-85 in Buford, Gwinnett County,  
Georgia, and was stopped in traffic.

3.

At or about said time and place, Defendant, who was operating a 2010 Nissan  
southbound in the left lane of I-85 directly behind the vehicle driven by Plaintiff Benjamin

Xavier XXXX, Jr., failed to stop her vehicle and struck the vehicle driven by Plaintiff Benjamin Xavier XXXX, Jr. from the rear.

4.

The aforementioned collision resulted in severe and permanent injuries to Plaintiff Benjamin Xavier XXXX, Jr.

5.

The aforementioned collision was caused by the Defendant's negligence.

6.

The Defendant's negligence includes, but is not limited to, the following acts or omissions:

- (A) Defendant drove her vehicle in an unsafe and unreasonable manner by striking the rear of Plaintiff Benjamin Xavier XXXX, Jr.'s vehicle;
- (B) Defendant failed to grant the right-of-way to Plaintiff Benjamin Xavier XXXX, Jr.'s vehicle;
- (C) Defendant failed to exercise ordinary care to prevent injury to Plaintiff Benjamin Xavier XXXX, Jr.;
- (D) Defendant failed to keep her vehicle under control, so as to avoid striking other vehicles;
- (E) Defendant failed to keep a proper lookout for vehicles to the front and the sides;
- (F) Defendant failed to make timely and proper application of her brakes;
- (G) Defendant was following Plaintiff Benjamin Xavier XXXX, Jr.'s vehicle too closely, in violation of O.C.G.A. § 40-6-49(a); and

(H) by committing other negligent and reckless acts and omissions as may be shown by the evidence and proven at trial.

7.

The Accident Report reflects that the officer who worked the subject collision issued Defendant a citation, Citation # M228261, for Following Too Closely, in violation of O.C.G.A. § 40-6-49(a).

8.

Defendant entered a plea of guilty to the charge of Following Too Closely, as relates to Citation # M228261.

9.

As a result of the above-described collision, Plaintiff Benjamin Xavier XXXX, Jr. suffered and continues to suffer physical and mental pain and suffering; has sustained permanent injuries; has incurred medical expenses and will incur future medical expenses for medical care and attention in the future; has suffered and will continue to suffer a diminution in the quality of his physical health and quality of life as a direct result thereof; has incurred lost income; and his physical capacity to earn income in the future has been diminished, as has his capacity to labor. Plaintiff Benjamin Xavier XXXX, Jr. is entitled to recover said damages, as well as all other damages to which he is entitled under Georgia law or as may be proved at trial. Said damages should be measured by the enlightened conscience of a fair and impartial jury.

10.

Plaintiffs claim all general and special damages allowed by Georgia Law, which may be proved at trial.

11.

At all times material herein, Plaintiff Benjamin Xavier XXXX, Jr. was exercising ordinary care for his own safety, relying upon other users of the roadway, including Defendant, to properly follow the rules of the road.

12.

There is no bona fide controversy as to the liability of the Defendant for the collision and for the resulting injuries and damages suffered by Plaintiffs as stated herein. In the event Defendant denies responsibility for any part of the collision or its consequences, Plaintiffs are entitled to recover their costs of litigation, including reasonable attorney's fees, pursuant to the provisions of O.C.G.A. § 13-6-11.

13.

Plaintiff Benjamin Xavier XXXX, Jr. brings this action to recover all damages to which he is entitled under Georgia law or as may be proved at trial, including, but not limited to, past, present and future physical and mental pain and suffering; permanent and traumatic injuries; past, present and future medical expenses; for the diminution in the quality of his physical health and quality of life as a direct result thereof; for lost income; and for his diminished capacity to earn income in the future, as well as his capacity to labor.

14.

Plaintiff Tara XXXX brings this action to recover for the loss of her husband's society, comfort, companionship, fellowship, conjugal relations and consortium due to injuries Plaintiff Benjamin Xavier XXXX, Jr. has suffered as a result of the aforementioned collision.

WHEREFORE, Plaintiffs respectfully pray and demand as follows:

- (A) that process and summons issue, as required by law, requiring Defendant to appear and answer Plaintiffs' Complaint for Damages;
- (B) that Plaintiffs have a trial by jury;

- (C) that Plaintiff Benjamin Xavier XXXX, Jr. have and recover damages sufficient to compensate him fully, fairly and completely for all his losses compensable under Georgia law;
- (D) that Plaintiff Tara XXXX recover for her loss of consortium;
- (E) that Plaintiffs have and recover their costs of litigation, including reasonable attorney's fees; and
- (F) that Plaintiffs have such other and further relief as this Court deems appropriate.

This 10th day of October, 2013.

McDONALD & CODY, LLC

BY: \_\_\_\_\_

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