

**IN THE SUPERIOR COURT OF HALL COUNTY
STATE OF GEORGIA**

JOSHUA DAVID XXXX,

Plaintiff,

vs.

MARIA JOSEPHINE
BERNARDUCCI

Defendant.

CIVIL ACTION
FILE NO.:

JURY TRIAL DEMANDED

PLAINTIFF'S COMPLAINT FOR DAMAGES AND OTHER RELIEF

NOW COMES Plaintiff JOSHUA DAVID XXXX who hereby makes his
Complaint for Damages and other relief against Defendant MARIA JOSEPHINE
BERBARDUCCI (“Defendant”) as follows:

JURISDICTIONAL ALLEGATIONS

1.

Each Plaintiff is a citizen and resident of Hall County, Georgia. Plaintiff submits
his selves to the jurisdiction of the Superior Court of Hall County with respect to this
lawsuit.

2.

Defendant is believed to be a Georgia resident as she resides at 320 Ridgewood Ave Apt B2, Gainesville, Hall County, Georgia 30501. Defendant may be personally served at 320 Ridgewood Ave Apt B2, Gainesville, Georgia 30501.

3.

Venue is proper in Hall County.

4.

FACTUAL ALLEGATIONS

5.

On December 11, 2013, Plaintiff Joshua David XXXX was driving a 2012 Yamaha FZ6RRBW on SR 53 in Hall County Georgia. On the same date Defendant Maria Josephine Bernarducci was operating a 2003 Kia Motors Soreno trying to cross SR 53 (McEver Road) from Kohl's to Publix shopping center in Hall County, Georgia.

6.

Suddenly and unexpectedly, Defendant Maria Josephine Bernarducci pulled her 2003 Kia Motors Soreno into Plaintiff Joshua David Beck's lane of travel. Plaintiff Joshua David Beck's motorcycle was struck by Defendant's vehicle during the unlawful attempt to make an attempt to cross from Kohl's shopping center to Pulix shopping center on SR 53 (McEver road).

7.

Defendant failed to yield to oncoming traffic prior to attempting the cross onto SR 53 (McEver road). As a result, Defendant's 2003 Kia Motors Sorento violently struck Plaintiff Joshua David Beck's vehicle.

8.

Plaintiff Joshua David XXXX was injured as a result of the collision with the vehicle driven by the Defendant. Plaintiff Joshua David XXXX was transported to the hospital after the collision.

9.

As a result of the above-described collision, Plaintiff Joshua David XXXX 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; and has suffered and will continue to suffer a diminution in the quality of her physical health and quality of life as a direct result thereof. Said damages should be measured by the enlightened conscience of a fair and impartial jury.

10.

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

COUNT I

(Simple Negligence)

11.

Plaintiff Joshua David XXXX incorporates by reference paragraphs “1” through “8” of his complaint into Count I as if fully set forth herein.

12.

Defendant's actions were negligent, causing personal injuries to Plaintiff. Plaintiff is entitled to compensatory, general, special and actual damages in an amount to be determined by the enlightened conscience of the jury.

COUNT II

(Negligence Per Se)

13.

Plaintiff Joshua David XXXX incorporates by reference paragraphs “1” through “11” of his complaint into Count II as if fully set forth herein.

14.

Defendant was intending to cross SR 53 (McEver road) in Hall County Georgia and failed to yield to Plaintiff Joshua David Beck's motorcycle, which was approaching from the opposite direction and was so close thereto as to constitute an immediate hazard.

15.

Defendant operated her car in violation of O.C.G.A. §40-6-71 (Failure to Yield), therefore, her actions were negligent per se in causing injuries to Plaintiff Joshua David XXXX thus entitling his to damages.

16.

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

- (a) Defendant drove her vehicle in an unsafe and unreasonable manner; Defendant failed to grant the right-of-way to the vehicle driven by Plaintiff Joshua David XXXX;
- (b) Defendant failed to exercise ordinary care to prevent injury to Plaintiff Joshua David XXXX;
- (c) Defendant failed to keep her vehicle under control, so as to avoid striking other vehicles;
- (d) Defendant failed to keep a proper lookout for vehicles to the front and the sides;
- (e) Defendant failed to make timely and proper application of her brakes;
- (f) Defendant drove her vehicle in reckless disregard for the safety of the persons and/or property of others;
- (g) Defendant violated O.C.G.A. § 40-6-71, Failure to Yield, with such violation, and others, amounting to negligence per se; and

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

17.

Plaintiff Joshua David Beck is entitled to compensatory, general, and special damages, in an amount to be determined by the enlightened conscience of the jury.

COUNT III

(Attorney's Fees and Expenses of Litigation)

18.

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 Plaintiff as stated herein. In the event Defendant denies responsibility for any part of the collision or its consequences, Plaintiff is entitled to recover his costs of litigation, including reasonable attorney's fees, pursuant to the provisions of O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiff pray's for the following relief under the enumerated Complaint as follows:

- (a) that process and summons issue, as required by law, requiring Defendant to appear and answer Plaintiff's Complaint for Damages and Other Relief;
- (b) that Plaintiff have a trial by jury;
- (c) that Plaintiff have and recover damages sufficient to compensate him fully, fairly and completely for all his losses compensable under Georgia law;

(d) that Plaintiff have and recover his costs of litigation, including reasonable attorney's fees; and

(e) that Plaintiff have such other and further relief as this Court deems appropriate.

This 18th day of December, 2013.

McDONALD & CODY, LLC

By: _____

GUS MCDONALD

Attorney for Plaintiff

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