

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

ELIZABETH ANN XXXX  
and JIMMY W. XXXX,

Plaintiffs

CIVIL ACTION

vs.

FILE NO.:

GRAYSON MERRITT POPP  
and TIMOTHY POPP,

Defendants

COMPLAINT FOR DAMAGES

COME NOW ELIZABETH ANN [REDACTED] and JIMMY W. [REDACTED] Plaintiffs  
herein, and file this their Complaint for Damages against GRAYSON MERRITT POPP and  
TIMOTHY POPP, as Defendants herein, and show the Court as follows:

PARTIES, JURISDICTION AND VENUE

1.

Plaintiffs Elizabeth Ann XXXX and Jimmy W. XXXX are residents of Lakeland, Polk  
County, Florida.

2.

Defendant Grayson Merritt Popp is a resident of Fulton County, Georgia, and is subject  
to the jurisdiction and venue of this Court. Defendant Grayson Merritt Popp can be served at his  
residence located at 8386 Roswell Road, Apt. B, Atlanta, Fulton County, Georgia 30350-2825.

3.

Defendant Timothy Popp is a resident of Oconee County, Georgia, and is subject to the jurisdiction and venue of this Court. Defendant Timothy Popp can be served at his residence located at 2103 Whitlow View Drive, Bishop, Georgia 30621.

OPERATIVE FACTS

4.

On August 10, 2014, at approximately 12:45 p.m., Plaintiff Elizabeth Ann [REDACTED] was a passenger in a 2007 Jeep Commander being operated by Plaintiff Jimmy W. [REDACTED] which was traveling in the southbound lane of Georgia Highway 24 in Bishop, Oconee County, Georgia.

5.

At or about said time and place, Defendant Grayson Merritt Popp was operating a 1994 Lincoln Town Car, owned by Defendant Timothy Popp, in the northbound lane of Georgia Highway 24, and suddenly made a left turn directly into the path of the vehicle being operated by Plaintiff Jimmy W. [REDACTED], causing a collision between the vehicle being operated by Defendant Grayson Merritt Popp and the vehicle in which Plaintiff Elizabeth Ann [REDACTED] was a passenger.

6.

The aforementioned collision resulted in permanent injuries to Plaintiff Elizabeth Ann [REDACTED]

LIABILITY OF THE DEFENDANT

7.

The aforementioned collision was caused by Defendant Grayson Merritt Popp's negligence.

8.

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

- (A) Defendant Grayson Merritt Popp failed to yield while turning left, in violation of O.C.G.A. § 40-6-71;
- (B) Defendant Grayson Merritt Popp drove his vehicle in an unsafe and unreasonable manner by making a left turn directly into the path of the vehicle operated by Plaintiff Jimmy W. [REDACTED] and in which Plaintiff Elizabeth Ann [REDACTED] was a passenger;
- (C) Defendant Grayson Merritt Popp failed to grant the right-of-way to the vehicle being operated by Plaintiff Jimmy W. [REDACTED] and in which Plaintiff Elizabeth Ann [REDACTED] was a passenger;
- (D) Defendant Grayson Merritt Popp failed to make timely and proper application of his brakes;
- (E) Defendant Grayson Merritt Popp drove his vehicle in reckless disregard for the safety of the persons and/or property of others;
- (F) Defendant Grayson Merritt Popp failed to exercise ordinary care to prevent injury to Plaintiff Elizabeth Ann [REDACTED];
- (G) Defendant Grayson Merritt Popp failed to keep his vehicle under control, so as to avoid striking other vehicles;
- (H) Defendant Grayson Merritt Popp failed to keep a proper lookout for vehicles to the front and the sides; and

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

9.

There is no bona fide dispute as to Defendants' responsibility for the collision and resulting injuries suffered by Plaintiff Elizabeth Ann [REDACTED] and in the event Defendants deny responsibility for same, Plaintiffs are entitled to recover their expenses of litigation, including reasonable attorney's fees, pursuant to provisions of O.C.G.A. § 13-6-11.

10.

The vehicle being driven by Defendant Grayson Merritt Popp at the time of the collision was owned by and registered to Defendant Timothy Popp.

11.

At the time of the subject collision, Defendant Timothy Popp was the owner of the 1994 Lincoln Town Car which was being operated by Defendant Grayson Merritt Popp. Said 1994 Lincoln Town Car was made available to Defendant Grayson Merritt Popp for family use and Defendant Grayson Merritt Popp was a member of Defendant Timothy Popp's household.

12.

The 1994 Lincoln Town Car being operated by Defendant Grayson Merritt Popp was driven by Defendant Grayson Merritt Popp with the permission and acquiescence of Defendant Timothy Popp; therefore, Defendant Timothy Popp is liable under the family purpose doctrine.

13.

Defendant Timothy Popp kept and maintained the 1994 Lincoln Town Car being operated by Defendant Grayson Merritt Popp for the use, comfort, pleasure and convenience of the family and Defendant Grayson Merritt Popp was using the 1994 Lincoln Town Car within the purpose and scope of such family business.

## DAMAGES CLAIMED

14.

As a result of the above-described collision, Plaintiff Elizabeth Ann [REDACTED] sustained traumatic and permanent injuries; suffered and continues to suffer physical and mental pain and suffering; has incurred medical expenses and will incur future 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. Plaintiff Elizabeth Ann [REDACTED] is entitled to recover said damages, as well as all other damages to which she 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.

15.

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

16.

Plaintiff Jimmy W. [REDACTED] brings this action to recover for the loss of his wife's society, comfort, companionship, fellowship, conjugal relations and consortium due to injuries Plaintiff Elizabeth Ann XXXX has suffered as a result of the aforementioned collision.

WHEREFORE, Plaintiffs respectfully pray:

- (A) that process and summons issue as required by law, requiring the Defendants to appear and answer Plaintiffs' Complaint;
- (B) that service be had upon the Defendants as provided by law;
- (C) that Plaintiffs have a trial by jury;
- (D) that a judgment be entered against the Defendants to compensate the Plaintiffs fully and completely for all their damages compensable under Georgia law;

- (E) that Plaintiffs recover all general and special damages as may be proved at trial;
- (F) that Plaintiffs recover their attorneys' fees and expenses of litigation from the Defendants;
- (G) that all costs be cast against the Defendants;
- (H) that Plaintiff Jimmy W. XXXX recover for his loss of consortium; and
- (I) that Plaintiffs have such other and further relief as this Court deems appropriate.

This 2<sup>nd</sup> day of August, 2016.

McDONALD & CODY, LLC

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