

FILED
COMMON PLEAS COURT
MUSKINGUM CO., OHIO
2010 NOV 29 PM 1 40
TODD A. BICKLE
CLERK

IN THE COMMON PLEAS COURT OF MUSKINGUM COUNTY, OHIO

GAYLE M. RODGERS, JR.,
Individually and as next legal
guardian of minor, Tyshawn Rodgers,
1447 Foster Street
Toledo, OH 43606

Plaintiff,

v.

DANIEL E. RAVER
151 S. 7th Street
Zanesville, OH 43701

Defendant.

) Case No.: CC 2010 -0784

) Judge JUDGE COTTRILL

) **COMPLAINT WITH JURY DEMAND AND**
) **ATTACHED DISCOVERY REQUESTS**

) Charles E. Boyk (0000494)
) Michael A. Bruno (0033780)
) Nicholas M. Dodosh (0086193)
) Charles E. Boyk Law Offices, LLC
) 405 Madison Ave., Suite 1200
) Toledo, Ohio 43604
) Phone: (419) 241-1395
) Facsimile: (419) 241-8731
) boykdiscovery@gmail.com

) Attorneys for Plaintiff

The Plaintiffs, by and through counsel, allege as follows:

FIRST CAUSE OF ACTION

For the first claim of relief against the Defendant, the Plaintiffs state:

1. Plaintiff are residents of Toledo, Lucas County, Ohio.
2. Defendant Daniel Raver is a resident of Zanesville, Muskingum County, Ohio.
3. On or about December 19, 2008, Plaintiff Gayle Rodgers, Jr. was traveling as a passenger in a vehicle driven by Rodney

Driggs. They were headed southbound on Putnam Avenue in Muskingum County, Ohio, when a vehicle driven by Defendant Daniel Raver, heading westbound on Jefferson Street, failed to yield, causing a collision. Zanesville Police cited Defendant Daniel Raver for failure to yield.

4. Defendant Daniel Raver owed a duty of care to Plaintiff Gayle Rodgers, Jr. not to operate a vehicle in such a manner that may cause injury to him.
5. Defendant Daniel Raver breached that duty of care by operating a vehicle in a dangerous and negligent way so as to injure the Plaintiff.
6. As a direct and proximate result of Defendant Daniel Raver's negligence, Plaintiff Gayle Rodgers, Jr. sustained serious permanent personal injuries.
7. As a direct result of Defendant Daniel Raver's negligence, Plaintiff Gayle Rodgers, Jr. sustained serious personal injuries to his left hand, wrist, arm, back and entire body. Plaintiff Gayle Rodgers, Jr. was required to undergo hospital and medical care; incurred hospital and medical care costs; incurred great pain, suffering, severe mental anguish, and emotional distress. Further, the Plaintiff believes that these injuries are permanent in nature and will require future medical care; future medical

care costs and he will continue to endure great pain, suffering, mental anguish, and emotional distress.

SECOND CAUSE OF ACTION

For the second claim of relief against the Defendant, the Plaintiff state:

8. Plaintiffs incorporate by reference the above paragraphs as though fully restated herein.
9. Plaintiff Tyshawn Rodgers, a minor, is the son of Plaintiff Gayle Rodgers, Jr.
10. Plaintiff Tyshawn Rodgers states that as a result of the negligence of the Defendant, he has been deprived of the love, affection, services, consortium and society of his father; and that the enjoyment and quality of life and his ability to carry on the normal activities of his daily life with his father has been impaired.

WHEREFORE, Plaintiffs pray that judgment be entered against the Defendant in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith.

Respectfully submitted,



Charles E. Boyk, Esq.
Attorney for Plaintiff

JURY DEMAND

The Plaintiff demands a trial by jury on all issues triable by right.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'C. Boyk', written in a cursive style.

Charles E. Boyk, Esq.
Attorney for Plaintiff

TO THE DEFENDANT DANIEL RAVER: The plaintiff hereby requests that Defendant Daniel Raver, pursuant to Rules 26, 33 and 34 of the Ohio Rules of Civil Procedure, respond to the following Request for Production of Documents and Interrogatories within twenty-eight (28) days of service hereof. Defendant is required to produce said documents and tangible evidence hereinafter described by mailing same to Plaintiffs' counsel of record: Charles E. Boyk, 405 Madison Avenue, Ste. 1200 Toledo, Ohio 43604-1304 within twenty-eight (28) days of the date of service. Pursuant to Rule 26(e) of the Ohio Rules of Civil Procedure, Plaintiffs request that the Defendant, reasonably supplement his responses after date of return or before the time of trial.

INSTRUCTIONS FOR RESPONDING

- A. In answering the Request for Production, you are required not only to furnish such documents and tangible evidence as you possess personally, but also documents and tangible evidence which are in the possession of your relative or other who are holding those documents or that tangible evidence on your behalf, your attorneys, your agents, or your employees.
- B. When after a reasonable and thorough investigation using due diligence, you are unable to provide a document because of lack of availability, identify said document and specify in full and complete

- detail the reason the document is not available to you and what has been done to locate and obtain such document.
- C. Where the Request for Production calls for the production of a document as to which you claim a privilege as a ground for non-production, please set forth with respect to the document, in addition to any other information requested, its date, author, addressee if any, title, type of tangible thing (letter, memorandum, telegram, chart, report, tape recording), subject matter (without revealing the information as to which privilege is claimed), and with sufficient specificity to permit the Court to make a full determination whether the claim of privilege is valid, each and every fact or basis on which you claim such privilege.
- D. If any document called for by this discovery is not available or accessible, or does not provide information in the full detail requested, this discovery shall be deemed to call for the best documents available on the subject matter.
- E. This Request for Production and answers to interrogatories is deemed to be continuing and to require the furnishing of additional documents and reasonable supplementation of responses whenever additional, updated or revised documents or information become available to you.

DEFINITION OF TERMS USED IN THESE INTERROGATORIES

A. As used herein, the term "document" means any writing or any other tangible thing of any kind and description, however produced or reproduced, whether draft or final, original or reproduction, in your actual or constructive possession, including, but not limited: letters, correspondence, resumes, memoranda, notes, films, transcripts, contracts, agreements, licenses, memoranda of telephone or personal conversations, microfilm, microfiche, telegrams, books, magazines, newspapers, brochures, press releases, advertisements, periodicals, bulletins, circulars, pamphlets, statements, notices, reports, rules, regulations, directive, teletype, or telefax messages, communications, minutes of records of meeting, expression of or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultations, appraisals, reports or summaries of negotiations, interoffice communications, financial statements, ledgers, books of account, proposals, prospectuses, offers, orders, receipts, working papers, desk calendars, appointment books, diaries, time sheets, logs, movies, tapes for visual or audio reproduction, recordings, or materials similar to any of the foregoing, however, denominated, and including drawings, graphs, charts, photographs, phone-records, data-processing paper results, data

print-outs, data computations (both in existence and in memory components), and other data compilations from which information can be obtained and translated, if necessary, by you through devices into reasonably usual form. The term "document" also includes any copies of each document if the copies are in any way whatsoever not identical copies of the original, by reason of additional writing or notations or otherwise.

B. Person includes natural persons, corporations, trusts, partnerships, joint venture, associations and any other business or legal entity.

C. Identify means the following:

1. If referring to a person it means a statement as to:

- a. The full name, business affiliation, and business title of such person;
- b. The last known business and home address of such persons;
- c. The last known business and home telephone number of such person; and
- d. If such person is not a natural person, state:
 - i. Its name;
 - ii. Its last known business address;
 - iii. Its character, e.g.: corporation, partnership;

iv. The name(s) and last known residence address(es) of its officers, directors, partners, and/or principals.

2. If referring to a writing, it means a statement as to:

- a. The nature of such writing and the date it bears;
- b. The title or designation of such writing;
- c. The date or dates of preparation of such writing;
- d. The name of the person or persons who prepared such writing;
- e. The name of the person or person who executed such writing;
- f. The name of the person or persons to whom such writing is addressed;
- g. Any file number used in connection with such writing;
- h. The portion of such writing, described by page and line number, which bears upon the subject inquired of this interrogatory;
- i. The present location of such writing and each copy thereof;
- j. The name and address of the person(s) presently possessing or having custody or control of such writing;

- k. A description of the means and circumstances by which you came into possession of such writing;
 - l. The date upon which you came into possession of such writing;
 - m. A description of the means and circumstances by which you first became aware of such writing;
 - n. The date upon which you first became aware of such writing; and
 - o. A brief summary of the contents of such writing; in lieu thereof, a true and complete copy of the writing may be appended to your answers to these interrogatories.
3. If referring to an oral communication, it means a statement as to:
- a. The nature of such oral communication and the date it occurred;
 - b. Whether such oral communication was made by person or telephone;
 - c. The name of the person(s) who participated in or had knowledge of such oral communication;
 - d. The geographical location of each such person at the time of such communication;

- e. The precise words used in the communication by each person present when such communication took place, or if the precise words cannot be stated, what was said by each person in words of substance or effect, or if this cannot be stated, a general description of the subject matter of the communication;
- f. A description of the means and circumstances by which you became aware of such oral communication; and
- g. The date upon which you first became aware of such oral communication.

REQUEST FOR PRODUCTION NO. 1:

1. A copy of any and all applicable insurance policies of any kind including the face sheet that lists specific policy limits.

REQUEST FOR PRODUCTION NO. 2:

2. Copies of any recordings, transcriptions, or summaries of any oral statements made by the Plaintiff.

REQUEST FOR PRODUCTION NO. 3:

3. A duplicate of any and all photographs depicting the damage and copies of any repair estimates for the damage sustained to any vehicles involved in this accident.

INTERROGATORY NO. 1:

1. State your full name, birth date, address, and Social Security number, business address and occupation or title and if the defendant is a corporation the office you hold with the defendant.

Answer:

INTERROGATORY NO. 2:

2. If it is the defendant's contention that the plaintiff's injuries were caused by some person, firm or corporation other than the defendant or any agent or employee of the defendant, please identify each such person, firm corporation fully, giving name, occupation, address, and a complete description of the way that each such person, firm or corporation caused or contributed to the plaintiff's injuries.

Answer:

INTERROGATORY NO. 3:

3. Please state the identity and location of each person other than your attorney who has knowledge of discoverable matters relating in any way to the claim asserted by the plaintiff's complaint.

Answer:

INTERROGATORY NO. 4:

4. Please completely identify each person the defendant expects to call as a witness or expert witness at trial, and state for each such person: the name, address, and occupation, the subject matter the person is expected to testify about, the substance of all facts and opinions to which the person is expected to testify, a summary of the grounds for each such opinion, experiences in the area of similar or comparable products and a list of books, treatises, articles and other works which the person regards as authoritative on the subject on which he or she is expected to testify.

Answer:

INTERROGATORY NO. 5:

5. With respect to the vehicle you occupied at the time of the accident state the name and address of the registered owner and who was driving said vehicle. If you were not driving please state the name, address and phone number of said driver.

Answer:

INTERROGATORY NO. 6:

6. State whether you were acting for, or on the behalf of, any other person or entity at the time of the accident.

Answer:

INTERROGATORY NO. 7:

7. If the answer to No. 6 was affirmative, state the name and address of the person or entity and the purpose for which you were operating the automobile.

Answer:

INTERROGATORY NO. 8:

8. State whether you had consumed any alcoholic beverages prior to the accident.

Answer:

INTERROGATORY NO. 9:

9. If the answer to No. 8 is affirmative, state: The time such beverages were consumed; the place such beverages were consumed, the quantity or amount of the beverage consumed.

Answer:

INTERROGATORY NO. 10:

10. State whether you had taken any medication or other drug within twenty-four hours (24) immediately preceding the accident.

Answer:

INTERROGATORY NO. 11:

11. If the answer to No. 10 is affirmative, state: The name of each such medication and the time such medication was taken; the quantity of medication taken; the name of the person if any prescribing the medication.

Answer:

INTERROGATORY NO. 12:

12. State whether you were made a defendant in any criminal or traffic case as a result of the accident, including any charges for driving under the influence.

Answer:

INTERROGATORY NO. 13:

13. If the answer to number 12 is affirmative, state: The Court and the case number involved; the charge or charges against you; whether you pleaded guilty thereto; and the ultimate disposition of the case.

Answer:

INTERROGATORY NO. 14:

14. State the full name and address of your employer and state whether you were employed at the time of the accident.

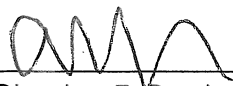
Answer:

INTERROGATORY NO. 15:

15. Did you or any person on your behalf take any photographs or videotape of the motor vehicles involved in the crash, the scene of the crash, either Plaintiff's injuries or the plaintiff's post-crash activities or conduct? If so, name the address of the custodian of each photograph and videotape.

Answer:

Respectfully submitted,



Charles E. Boyk, Esq.
Attorney for Plaintiff