

IN THE COMMON PLEAS COURT OF LUCAS COUNTY, OHIO

SCOTT MEHL

406 N. Findlay
Haskins, Ohio 43525

Plaintiff

vs.

OWEN HAYWARD

5943 Lynwood Court
Whitehouse, Ohio 43571

And

OHIO CASUALTY

P O Box 296
Hamilton, Ohio 45012

Defendants

) Case No.:

)

) Judge

)

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

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) Michael A. Bruno (0033780)

) Charles E. Boyk (0000494)

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) Attorney for Plaintiff

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Now comes the Plaintiff, by and through counsel, and for his Complaint states as follows:

FIRST CAUSE OF ACTION

1. Plaintiff, is a resident of Haskins, Wood County, Ohio.
2. Defendant Owen Hayward is a resident of Whitehouse, Lucas County, Ohio.
3. Defendant Ohio Casualty is an insurance company which does business in Lucas County, Ohio.
4. On or about November 13, 2007 Plaintiff was stopped at a red light at the intersection of Anthony Wayne Trail and South Street, Toledo, Lucas County, Ohio when Defendant Owen Hayward failed to stop, striking Plaintiff's vehicle in the rear, causing a collision.
5. Defendant Hayward is under a duty to operate his vehicle in a safe and prudent manner.
6. Defendant Hayward breached that duty of care by operating his car in a negligent manner and colliding with Plaintiff's vehicle.
7. As a direct and proximate result of the negligence of Defendant Hayward, the Plaintiff sustained serious permanent personal injuries.
8. As a direct result of Defendant Hayward's negligence, the Plaintiff sustained injury to his right shoulder, left knee, as well as other body parts. The Plaintiff was required to undergo medical care, incurred medical care costs; suffered great pain and suffering, and severe mental anguish and emotional distress, as well as lost wages. Further, the Plaintiff believes that his 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 Defendants, the Plaintiff states:

9. Plaintiff incorporates by reference the allegations contained in paragraphs one through ten as though fully restated herein.
10. At all times relevant, Defendant Ohio Casualty, was and is an insurance company doing business in the State of Ohio and had a contractual duty to Plaintiff under the Ohio Casualty Policy to provide under-insurance coverage and medical payments coverage.
11. Defendant Ohio Casualty is contractually liable, up to Plaintiff's policy limits, for damages caused by the aforementioned accident involving Plaintiff. A copy of said policy though requested, has not been made available to Plaintiff at this time.
12. Plaintiff's damages in this case may exceed monies available to be paid by all tortfeasor's liability carriers, therefore requiring payment by Defendant Ohio Casualty under its contractual obligation to Plaintiff.

WHEREFORE, Plaintiff respectfully requests judgment in an amount in excess of twenty-five thousand dollars (\$25,000.00) together with costs, interest and reasonable attorney's fees;

Respectfully submitted,

Michael A. Bruno
Attorney for Plaintiff

JURY DEMAND

Now come the plaintiffs by and through counsel and hereby demand a jury trial on all issues triable by right herein.

Michael A. Bruno
Attorney for Plaintiff

TO THE DEFENDANT OWEN HAYWARD:

The following Interrogatories and Requests for Production of Documents are submitted herewith to you to be answered in writing within 28 days after the date of service thereof upon you.

INSTRUCTIONS FOR RESPONDING

1. All information is to be divulged which is in your possession or control or within the possession and control of your attorneys, investigators, agents, employees or other representatives of you or your insurance company.
2. Where the word "incident" is used, it refers to the incident which is the basis of this lawsuit unless otherwise specified.
3. Where an interrogatory calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.
4. "Medical Practitioner" as used herein includes any medial doctor, osteopathic physician, chiropractor or any other person who performs a type of healing art.
5. You are reminded that all answers must be made separately and fully and that an incomplete or evasive answer is a failure to answer.
6. You are under a continuing duty to reasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity of any person expected to be called as an expert witness at trial, and the subject matter on which he or she is expected to testify, and to correct any response which you know or later learn is incorrect.

REQUEST FOR PRODUCTION NO:

1. A certified copy of any/all applicable liability insurance policies of any kind including the face sheet which lists specific policy limits, as requested in Interrogatories numbered six and seven.

REQUEST FOR PRODUCTION NO:

2. Copies of any/all documents, witness statements obtained by the defendant or any of his agents concerning the subject matter of this complaint.

REQUEST FOR PRODUCTION NO:

3. A list of names, addresses, and phone numbers of any witnesses that may have seen the incident which is the subject matter of this complaint.

REQUEST FOR PRODUCTION NO:

4. A copy of any and all reports, notes, and/or memoranda that any expert witness may have produced or authored.

REQUEST FOR PRODUCTION NO.:

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

INTERROGATORY NO:

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. 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 in which each such person, firm or corporation caused or contributed to the plaintiffs' injuries.

Answer:

INTERROGATORY NO:

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 accident asserted by the plaintiffs' complaint.

Answer:

INTERROGATORY NO:

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/she is expected to testify.

Answer:

INTERROGATORY NO:

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. On the date of said accident, was the vehicle you were driving and/or owned, covered under a liability insurance policy ? If so, please state the following :

- a. name of insurance company;
- b. named insured;
- c. dates of coverage;
- d. policy number;
- e. limits of liability coverage;
- f. is the insurance company named above defending you under a “reservation of rights?”

INTERROGATORY NO:

7. With respect to the subject accident, were you covered by any other policies of liability insurance or a financial responsibility bond? If so, please state the following:

- a. name of insurance company;
- b. names insured;
- c. dates coverage;
- d. policy number;
- e. limits of liability coverage;
- f. is the insurance company named above defending you under a “reservation of rights?”

INTERROGATORY NO:

8. 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:

9. If the answer to No. 8 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:

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

Answer:

INTERROGATORY NO:

11. If the answer to No. 10 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:

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

Answer:

INTERROGATORY NO:

13. If the answer to No. 12 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:

14. State whether you were made a defendant in any criminal or traffic case as a result of the accident.

Answer:

INTERROGATORY NO:

15. If the answer to number 14 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:

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

Answer:

Michael A. Bruno
Attorney for Plaintiffs

TO THE DEFENDANT OHIO CASUALTY : The plaintiffs hereby request that Defendant GEICO General Insurance Company 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. Said Defendants are required to produce said documents and tangible evidence hereinafter described by mailing same to Plaintiffs' counsel of record: Charles E. Boyk, 405 Madison Avenue, Suite 1200, Toledo, Ohio 43604 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 vest documents available on the subject matter.
- E. This Request for Production and answers to interrogatories is deemed to be continuing and to required 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. The number of minutes or hours during which such communication occurred;
- g. A description of the means and circumstances by which you became aware of such oral communication; and
- h. The date upon which you first became aware of such oral communication.

INTERROGATORY NO:

1. Please state the name, address and official capacity of the person who is responding to these interrogatories.

Answer:

REQUEST FOR ADMISSION:

1. Do you admit that the Plaintiff was covered under a policy of insurance written by Ohio Casualty and that the policy was in effect on November 13, 2007?

Answer:

If not, please state the basis for your denial.

Answer:

REQUEST FOR ADMISSION NO.:

2. Do you admit that the Plaintiff was involved in automobile accident on or about November 13, 2007, in which another party was at fault for the accident?

Answer:

If not please state the basis for your denial.

Answer:

REQUEST FOR ADMISSION NO:

3. Do you admit that the accident that occurred on or about November 13, 2007, occurred on Anthony Wayne Trail in Toledo, Lucas County, Ohio ?

Answer:

If not please state the basis for your denial.

Answer:

REQUEST FOR PRODUCTION NO.:

1. A duplicate of any and all photographs depicting the damage and copies of any repair estimates for the damage sustained to Plaintiff's vehicle involved in the crash described in Plaintiff's Complaint.

REQUEST FOR PRODUCTION NO.:

2. A certified copy of your insured's policy, including the declarations page.

REQUEST FOR PRODUCTION NO.:

3. Please attach a copy of any statements by the Plaintiff taken by you in whatever format they exist.

Answer:

INTERROGATORY NO.

2. Do you contend that the Plaintiff was negligent in any manner that proximately contributed to the injuries sustained as a result of this accident?

Answer:

If so, please state each act or omission that you contend constitutes negligence.

Answer:

INTERROGATORY NO.

3. Please state the policy limits of your insured's policy.

Answer:

Respectfully submitted,

Michael A. Bruno
Attorney for Plaintiffs