

COURT OF COMMON PLEAS

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CINDY MOLLENKOFF, CLERK
VAN WERT CO. OHIO

IN THE COMMON PLEAS COURT OF VAN WERT COUNTY, OHIO
CIVIL DIVISION

OTONAS SIMPUKAS
2059 Blue Top Road
Tazewell, Tennessee 37879

And

CATALINA SIMPUKAS
2059 Blue Top Road
Tazewell, Tennessee 37879

And

ZACHARIAS SIMPUKAS
2059 Blue Top Road
Tazewell, Tennessee 37879

Plaintiffs,

) Case No.: CV-18-11-131
)
) Judge:
)
) **COMPLAINT**
)
) *(Jury Demand Endorsed Hereon)*
)
) Charles E. Boyk (0000494)
) Michael A. Bruno (0033780)
) Leah O. Michael (0093135)
) *Charles E. Boyk Law Offices, LLC*
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)
) *Attorneys for Plaintiffs*

v.

GEICO INSURANCE COMPANY
One Geico Center
Macon, GA 31296

And

DORTHA PRIOR
650 Golden Oaks Drive
Unit 24
Van Wert, Ohio 45981

Defendants.

NOW COME Plaintiffs, by and through undersigned counsel, and hereby file their Complaint for damages arising and resulting from an automobile collision that occurred on or about November 6, 2016, and in support of their claims, hereby alleges and avers as follows:

THE PARTIES

1. Plaintiff Otonas Simpukas is a resident of Tazewell, Claiborne County, Tennessee.
2. Plaintiff Catalina Simpukas is a resident of Tazewell, Claiborne County, Tennessee.
3. Plaintiff Zacharias Simpukas is a resident of Tazewell, Claiborne County, Tennessee.
4. Upon information and belief, at all relevant times Defendant Dortha Prior is a resident of Van Wert, Van Wert County, Ohio.
5. Defendant Geico Insurance Company is an insurance company licensed to sell insurance in the State of Ohio, which issued a policy to Amber Simpukas (a non-party to this action), providing un-insured, under-insured and medical payments coverages. A copy of said policy and/or it's declarations page is *not attached* hereto as it not within Plaintiffs' possession.

JURISDICTION AND VENUE

6. This Court has jurisdiction to hear this matter pursuant to Ohio Rev. Code § 2305.01.
7. This Court is the proper venue for this action, pursuant to Ohio R. Civ. P. 3(C)(3) and (6), as Defendants conducted activity within Van Wert County and Plaintiffs' claims for relief arose in Van Wert County.

8. Pursuant to Ohio R. Civ. P. 8, Plaintiffs state that the amount in controversy exceeds \$25,000.

FACTS

9. Plaintiff Otonas Simpukas was driving a vehicle southbound on U.S. 127 in Liberty Township, Van Wert County, Ohio on November 6, 2016 at approximately 8:45 AM, traveling to a funeral service for his wife's father's funeral in Michigan.

10. Plaintiffs Catalina Simpukas and Zacharias Simpukas, the adult children of Plaintiff Otonas Simpukas, were passengers in his vehicle on November 6, 2016.

11. Defendant Dortha Prior attempted a left hand turn from the northbound lane of U.S. 127 onto State Route 709. Defendant Prior failed to yield the right of way to Plaintiff Otonas Simpukas, striking his vehicle.

12. Defendant Dortha Prior was cited for this accident by Ohio State Highway Patrol for violation of a right of way when turning left pursuant to O.R.C. 4511.42.

13. As a result of this accident, Plaintiffs have sustained personal injuries.

FIRST CAUSE OF ACTION *(Negligence)*

14. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

15. In operating a motor vehicle on a public roadway Defendant Dortha Prior owed a duty of care to Plaintiffs to operate her vehicle in a safe manner and in accordance with the laws of the State of Ohio.

16. Defendant Prior breached that duty of care by failing to use reasonable care while driving the automobile and failing to follow applicable traffic laws.

17. As a direct and proximate result of Defendant Prior's negligence and breach of her duty of care, Plaintiff Otonas Simpukas sustained serious and permanent personal injuries to his head, neck, back, and entire body, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

18. Further, Plaintiff Otonas Simpukas believes that these injuries are permanent in nature and he will require future medical care and future medical care costs, and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

19. As a direct and proximate result of Defendant Prior's negligence and breach of her duty of care, Plaintiff Catalina Simpukas sustained serious and permanent personal injuries to her face and entire body, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

20. Further, Plaintiff Catalina Simpukas believes that these injuries are permanent in nature and she will require future medical care and future medical care costs, and that she will continue to endure great pain, suffering, mental anguish, and emotional distress.

21. As a direct and proximate cause of Defendant Prior's negligence and breach of her duty of care, Plaintiff Zacharias Simpukas sustained serious and permanent personal injuries to his entire body, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

22. Further, Plaintiff Zacharias Simpukas believes that these injuries are permanent in nature and he will require future medical care and future medical care costs, and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

SECOND CAUSE OF ACTION
(Declaratory Relief)

23. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

24. Defendant Geico Insurance Company's policy issued to Amber Simpukas (a non-party to this action) provided underinsured and uninsured coverage, as well as medical payments coverage, of which Plaintiffs may be eligible to recover for their injuries.

25. As a direct and proximate result of Defendant Prior's negligence and breach of her duty of care, Plaintiffs may have possibly incurred medical expenses over and above Defendant Prior's liability insurance policy limits. Therefore, Plaintiffs are bringing an underinsured claim against Defendant Geico Insurance Company.

26. As a direct and proximate result of Defendant Prior's negligence and breach of her duty of care, Plaintiff Otonas Simpukas sustained serious and permanent personal injuries to his head, neck, back, and entire body, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

27. Further, Plaintiff Otonas Simpukas believes that these injuries are permanent in nature and he will require future medical care and future medical care costs, and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

28. As a direct and proximate result of Defendant Prior's negligence and breach of her duty of care, Plaintiff Catalina Simpukas sustained serious and permanent personal injuries to her face and entire body, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

29. Further, Plaintiff Catalina Simpukas believes that these injuries are permanent in nature and she will require future medical care and future medical care costs, and that she will continue to endure great pain, suffering, mental anguish, and emotional distress.

30. As a direct and proximate cause of Defendant Prior's negligence and breach of her duty of care, Plaintiff Zacharias Simpukas sustained serious and permanent personal injuries to his entire body, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

31. Further, Plaintiff Zacharias Simpukas believes that these injuries are permanent in nature and he will require future medical care and future medical care costs, and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

32. Plaintiffs request this Court to determine whether, for purposes of this action, Plaintiffs are covered under the aforementioned policy or policies of insurance issued by Defendant Geico Insurance Company to Amber Simpukas (a non-party to this action) and further determine the parties' rights and responsibilities under said policies, including but not limited to underinsured and uninsured motorist policies.

WHEREFORE, Plaintiffs pray that judgment be entered against the Defendants as follows:

1. On the FIRST cause of action, a judgment against Defendant(s) in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith; and
2. On the SECOND cause of action, to determine the rights acquired by Amber Simpukas (a non-party to this action) through her

purchase of the underinsured and medical payments policy purchased from Geico Insurance Company and in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), with interest, costs and reasonable attorney fees associated herewith; and

3. For such other and further relief as the Court deems just and proper.

Respectfully submitted,



Charles E. Boyk (0000494)
Attorney for Plaintiffs

JURY DEMAND

The Plaintiffs demand a trial by jury on all issues triable by right.



Charles E. Boyk (0000494)
Attorney for Plaintiffs

PRAECIPE FOR SERVICE

TO THE CLERK:

Please serve Defendants via certified mail, return receipt requested at the address listed in the Caption to this Complaint.

Respectfully submitted,



Charles E. Boyk (0000494)
Attorney for Plaintiffs