

FILED
LUCAS COUNTY

2018 NOV 27 PM 4:15

COMMON PLEAS COURT
BERNIE QUILTER
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**IN THE COMMON PLEAS COURT OF LUCAS COUNTY, OHIO
CIVIL DIVISION**

G-4801-CI-0201804462-000

GRETCHEN THOMAS
2233 Foxbourne Road #27
Toledo, Ohio 43614

Plaintiff,

v.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**
c/o Stanley Cranston, Registered Agent
621 N. State Street
Girard, Ohio 44420

And

JOY M. GOINGS
1401 Goodale Avenue
Toledo, Ohio 43606

And

DEWAN CLARK
2006 Mulberry Street
Toledo, Ohio 43608

Defendants.

Case No.:

Judge

JAMES D. BATES

Judge:

COMPLAINT

(Jury Demand Endorsed Hereon)

Charles E. Boyk (0000494)
Michael A. Bruno (0033780)
Leah O. Michael (0093135)
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405 Madison Ave.
Suite 1200
Toledo, Ohio 43604
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Attorneys for Plaintiff

NOW COMES Plaintiff, by and through undersigned counsel, and hereby files her
Complaint for damages arising and resulting from an automobile collision that occurred on
or about January 3, 2017, and in support of her claims, hereby alleges and avers as follows:

THE PARTIES

1. Plaintiff Gretchen Thomas is and at all relevant times was a resident of Toledo, Lucas County, Ohio.
2. Upon information and belief, at all relevant times Defendant Joy M. Goings is and was a resident of Toledo, Lucas County, Ohio.
3. Upon information and belief, at all relevant times Defendant Dewan J. Clark is and was a resident of Toledo, Lucas County, Ohio.
4. Defendant State Farm Mutual Automobile Insurance Company is an insurance company licensed to sell insurance in the State of Ohio, which sold an insurance policy, including un-insured and under-insured coverage to Gretchen Thomas. A copy of the policy declarations page is attached hereto as Exhibit "A".

JURISDICTION AND VENUE

5. This Court has jurisdiction to hear this matter pursuant to Ohio Rev. Code § 2305.01.
6. This Court is the proper venue for this action, pursuant to Ohio R. Civ. P. 3(B)(3) and (6), as Defendants conducted activity within Lucas County and Plaintiff's claims for relief arose in Lucas County.
7. Pursuant to Ohio R. Civ. P. 8, Plaintiff states that the amount in controversy exceeds \$25,000.

FACTS

8. On January 3, 2017, at approximately 4:45 PM, Plaintiff Gretchen Thomas was traveling westbound on W. Sylvania Road nearing the Talmadge Road intersection when her vehicle was struck on the passenger side by Defendant Dewan J. Clark.

9. Upon information and belief, Defendant Dewan J. Clark was exiting a driveway at the time he struck Plaintiff's vehicle.

10. Upon information and belief, Defendant Dewan J. Clark was operating a motor vehicle owned by Defendant Joy M. Goings at the time of the accident.

11. Defendant Dewan J. Clark fled the scene of the accident before reporting it to police.

FIRST CAUSE OF ACTION

(Negligence – Defendant Dewan J. Clark)

12. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

13. In operating a motor vehicle on a public roadway Defendant Dewan J. Clark owed a duty of care to Plaintiff Gretchen Thomas to operate his vehicle in a safe manner and in accordance with the laws of the State of Ohio.

14. Defendant Dewan J. Clark breached that duty of care by failing to use reasonable care while driving the automobile and failing to follow applicable traffic laws.

15. As a direct and proximate result of Defendant Dewan J. Clark's negligence and breach of his duty of care, Plaintiff Gretchen Thomas has sustained serious and permanent personal injuries to her head, neck, and back causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

16. Further, Plaintiff Gretchen Thomas believes that these injuries are permanent in nature and 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.

SECOND CAUSE OF ACTION

(Declaratory Relief – Defendant State Farm Mutual Automobile Insurance Company)

17. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

18. Defendant State Farm Mutual Automobile Insurance Company's policy issued to Plaintiff Gretchen Thomas provided underinsured and uninsured coverage, as well as medical payments coverage.

19. As a direct and proximate result of Defendant Dewan J. Clark's negligence and breach of his duty of care, Plaintiff may possibly have incurred medical expenses over and above Defendant Joy M. Going's liability insurance policy limits of an unknown amount. Therefore, Plaintiff is bringing an underinsured claim against Defendant State Farm Mutual Automobile Insurance Company.

20. Plaintiff Gretchen Thomas has sustained serious and permanent personal injuries to her head, neck, and back causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

21. Further, Plaintiff Gretchen Thomas believes that these injuries are permanent in nature and 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.

THIRD CAUSE OF ACTION

(Negligent Entrustment – Defendant Joy M. Goings)

22. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully restated at length herein.

23. Defendant Joy M. Goings is/was the owner of the car driven by Defendant Dewan J. Clark that caused the above described accident.

24. Defendant Joy M. Going's negligent entrustment of the vehicle to Defendant Dewan J. Clark directly and proximately caused the accident described herein.

25. Defendant Joy M. Goings owes a duty to Plaintiff not to negligently entrust a vehicle to an inexperienced, reckless, incompetent and/or dangerous driver.

26. Defendant Joy M. Goings breached that duty of care by negligently entrusting her automobile to Defendant Dewan J. Clark.

27. As a direct and proximately cause of Defendant Joy M. Going's negligent entrustment, Plaintiff Gretchen Thomas has sustained serious and permanent personal injuries to his head, neck, and back causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

28. Further, Plaintiff Gretchen Thomas believes that these injuries are permanent in nature and 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.

FOURTH CAUSE OF ACTION

(Punitive Damages)

29. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

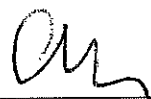
30. Defendant Dewan J. Clark's conduct, in fleeing the scene of the accident with Plaintiff evinces a conscious disregard for the safety and well-being of society.

31. Defendant Dewan J. Clark's conduct thereby warrants an assessment of exemplary and punitive damages in an amount appropriate to punish him for his indifference to the substantial harm his conduct and/or recklessness could and did cause, and to deter him and others from behaving similarly.

WHEREFORE, Plaintiff prays 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;
2. On the SECOND cause of action, a declaratory judgment of Plaintiffs' rights as it relates to collecting from the aforementioned State Farm Mutual Automobile Insurance Company policy and for declaratory judgment as to Defendant State Farm Mutual Automobile Insurance Company's responsibilities to pay as it relates to collecting from the aforementioned policy, including but not limited to under- and un-insured motorist coverage;
3. On the THIRD 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;
4. On the FOURTH cause of action, a judgment against Defendant(s) in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) for punitive damages, with interest, costs and reasonable attorney fees associated herewith; and
5. For such other and further relief as the Court deems just and proper.

Respectfully submitted,



Charles E. Boyk (0000494)
Attorney for Plaintiff

JURY DEMAND

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



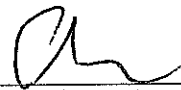
Charles E. Boyk (0000494)
Attorney for Plaintiff

PRAECIPE FOR SERVICE

TO THE CLERK:

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

Respectfully submitted,



Charles E. Boyk (0000494)
Attorney for Plaintiff



Confirmation of Coverage

35-9Q08-877
Claim Number

This policy is issued by:

- State Farm Mutual Automobile Insurance Company
- State Farm County Mutual Insurance Company of Texas
- State Farm Fire and Casualty Company
- State Farm Lloyds
- State Farm Indemnity Company
- State Farm Guaranty Insurance Company
- State Farm Florida Insurance Company
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(Write in the name of the appropriate State Farm® affiliate)

This confirms that policy number 3868195351, covering a(n) 2012 Nissan ALTIMA, 1N4AL2AP4CC188324, was issued to Gretchen T Thomas and was in effect on the accident date of January 03, 2017. The coverages and limits of liability for this policy on that date were:

A 100/300/100,C 10,000,D,G500,H,R1 25/600,U 50/100
U IS U-BI INCLUDING UNDERINSURED


Claim Team Manager

