

LUCAS COUNTY COMMON PLEAS COURT
CASE DESIGNATION

TO: Bernie Quilter, Clerk of Courts

CASE NO. _____

JUDGE G-4801-CI-0201901990-000

Judge
STACY L. COOK

The following type of case is being filed:

Professional Malpractice

Legal Malpractice (L)

Medical Malpractice (M)

Product Liability (B)

Other Tort (C)

Workers' Compensation

State Funded (D)

Self Insured (K)

Administrative Appeal (F)

Commercial Docket

By submitting the complaint, with the signature of the Attorney, the Attorney affirms that the name of person with settlement authority and his/her direct phone number will be provided upon request to a party or counsel in this matter

Other Civil

Consumer Fraud (N) Forfeiture

Appropriation (P) Court Ordered

Other Civil (H) Certificate of Title

Copyright Infringement (W)

This case was previously dismissed pursuant to CIVIL RULE 41 and is to be assigned to Judge _____, the original Judge at the time of dismissal. The previously filed case number was CI _____.

This case is a Declaratory Judgment case with a personal injury or related case currently pending. The pending case number is _____, assigned to Judge _____.

This case is to be reviewed for consolidation in accordance with Local Rule 5.02 as a companion or related case. This designation sheet will be sent by the Clerk of Courts to the newly assigned Judge for review with the Judge who has the companion or related case with the lowest case number. The Judge who would receive the consolidated case may accept or deny consolidation of the case. Both Judges will sign this designation sheet to indicate the action taken. If the Judge with the lowest case number agrees to accept, the reassignment of the case by the Administration Judge shall be processed. If there is a disagreement between the Judges regarding consolidation, the matter may be referred to the Administrative Judge.

Related/companion case number _____ Assigned Judge _____

Approve/Deny _____ Date _____ Approve/Deny _____ Date _____

Attorney Charles E. Boyk (0000494)
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Toledo, Ohio 43604
Telephone 419-241-1395

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

DIANE SULIER
2015 McCord Road, #83
Toledo, Ohio 43615

And

RICK SULIER
2015 McCord Road, #83
Toledo, Ohio 43615

Plaintiffs,

v.

**PROGRESSIVE SPECIALTY
INSURANCE COMPANY**
c/o CT Corporation System
4400 Easton Commons Ways
Suite 125
Columbus, Ohio 43219

And

COURTNEY HARNER
5747 Talmadge Road
Apt. A8
Toledo, Ohio 43623

Defendants.

) Case No. **G-4801-CI-0201901990-000**

) Judge **STACY L. COOK**
) Judge:

) **COMPL**
) *(Jury Demand Endorsed Hereon)*

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) *Attorneys for Plaintiffs*

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 May 3, 2018, and in support of their claims, hereby alleges and avers as follows:

THE PARTIES

1. Plaintiffs Diane and Rick Sulier are residents of Toledo, Lucas County, Ohio.
2. Upon information and belief, at all relevant times Defendant Courtney Harner is a resident of Toledo, Lucas County, Ohio.
3. Defendant Progressive Specialty Insurance Company is an insurance company licensed to sell insurance in the State of Ohio, which issued a policy of insurance, including un-insured and under-insured coverage, as well as medical payments coverage to Plaintiffs Diane and Rick Sulier. A copy of the policy detail page is *not* attached hereto as it is not in Plaintiffs' possession.

JURISDICTION AND VENUE

4. This Court has jurisdiction to hear this matter pursuant to Ohio Rev. Code § 2305.01.
5. 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 Plaintiffs' claims for relief arose in Lucas County.
6. Pursuant to Ohio R. Civ. P. 8, Plaintiffs state that the amount in controversy exceeds \$25,000.

FACTS

7. On May 3, 2018, at approximately 4:00 PM, Plaintiff Diane Sulier was operating a motor vehicle northbound on Detroit Avenue. There were vehicles immediately in front of and directly behind Ms. Sulier's vehicle.
8. As Plaintiff Diane Sulier was traveling northbound on Detroit Avenue, she had to stop abruptly for the vehicle immediately in front of her as someone made a quick left-hand turn onto Palmwood Avenue obstructing the path of travel of vehicles traveling northbound on Detroit Avenue.
9. While Plaintiff Diane Sulier was stopped, she was rear-ended by Defendant Courtney Harner.
10. The impact of the rear-end collision caused Plaintiff Diane Sulier to strike the vehicle in front of her.
11. Defendant Courtney Harner was cited by the Toledo Police Department for failure to maintain an assured, clear distance ahead pursuant to O.R.C. 4571.21.

FIRST CAUSE OF ACTION
(Negligence)

12. Plaintiffs incorporate 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 Courtney Harner 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.

14. Defendant 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 Harner's negligence and breach of her duty of care, Plaintiff Diane Sulier sustained serious and permanent personal injuries to her head, neck, back, bilateral shoulders, and right hand, causing incursion of substantial medical expenses, pain and suffering, mental anguish, and emotional distress.

17. Further, Plaintiff Diane Sulier 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.

SECOND CAUSE OF ACTION
(Loss of Consortium – Plaintiff Rick Sulier)

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

19. Plaintiff Rick Sulier is the legal spouse of Plaintiff Diane Sulier.

20. Plaintiff Rick Sulier states that as a result of the negligence of Defendant Courtney Harner, she has been deprived of the love, affection, services, consortium, and society of her spouse; and that the enjoyment and quality of her life and her ability to carry on the normal activities of her daily life with her spouse have been impaired.

THIRD CAUSE OF ACTION
(Declaratory Relief – Progressive Specialty Insurance Company)

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

25. Defendant Progressive Specialty Insurance Company's policy issued to Plaintiffs provided underinsured and uninsured coverage, as well as medical payments coverage.

26. As a direct and proximate result of Defendant Harner's negligence and breach of her duty of care, Plaintiffs have potentially incurred medical expenses over and above Defendant Harner's liability insurance policy limits, an amount unknown at this time. Therefore, Plaintiffs bring an underinsured/uninsured claim against Defendant Progressive Specialty Insurance Company.

27. 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 Progressive Specialty Insurance Company to Plaintiffs 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, 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
3. On the THIRD cause of action, a declaratory judgment of Plaintiffs' rights as it relates to collecting from the aforementioned Progressive Specialty Insurance Company policy and for declaratory judgment

as to Defendant Progressive Specialty 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; and

4. 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 addresses listed in the Caption to this Complaint.

Respectfully submitted,



Charles E. Boyk (0000494)
Attorney for Plaintiffs