

FILED
LUCAS COUNTY

2019 JUL -8 P 3: 55

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

DANIEL CASE and LISA CASE,
individually and behalf
of their minor child J.C.,
226 Gradolph St.
Toledo, Ohio 43612

Plaintiff

v.

YASMEEN PERRIN
4860 S. Teal Ln.
Oregon, OH 43616

and

PROGRESSIVE CASUALTY
INSURANCE COMPANY
6300 Wilson Mills Rd.
Mayfield, OH 44143

Defendants.

CASE NO.: **G-4801-CI-0201903007-000**
JUDGE: **Judge**
JOSEPH V. MCNAMARA

COMPLAINT and DECLARATORY
JUDGMENT

Charles E. Boyk (0000494)
Kathleen R. Harris (0088079)
Charles E. Boyk Law Offices, LLC
405 Madison Ave.
Suite 1200
Toledo, Ohio 43604
Telephone: (419) 241-1395
Facsimile: (419) 241-8731
cboyk@charlesboyk-law.com
kharris@charlesboyk-law.com

Attorneys for Plaintiffs

Plaintiffs DANIEL CASE and LISA CASE, both individually, and as natural parents on behalf J.C. ("Plaintiff") bring this Complaint and allege as follows:

NATURE OF THE ACTION

1. This is an action for personal injuries and related economic damages suffered by Plaintiff as a direct and proximate result of the respective negligence of Defendant Yasmeen Perrin regarding a motor vehicle accident on March 5, 2018, in Toledo, Lucas County, Ohio.

2. Plaintiff may have incurred damages over and above Defendant's liability insurance limits, thereby rendering Defendant an "underinsured motorist" as defined under Plaintiff's Progressive Insurance auto policy. Accordingly, Plaintiff is seeking declaratory judgment that pursuant to Plaintiff's underinsured coverage with Progressive, that Progressive is liable to Plaintiff for any uncompensated injuries and damages exceeding the limits of Defendants' liability policy. Said policy is not attached hereto as Defendant Progressive is in possession of such policy.

PARTIES

3. Plaintiffs Daniel Case and Lisa Case, husband and wife, and their minor child, J.C., are all citizens of the state of Ohio and resides in Toledo, Lucas County, Ohio.

4. Defendant Yasmee Perrin is a citizen of the state of Ohio and resides in Oregon, Lucas County, Ohio.

5. Defendant Progressive Casualty Insurance Company ("Progressive") is a corporation organized and formed under the laws of the state of Ohio with a principal place of business in Mayfield Village, Ohio.

6. Progressive issued a policy of insurance which, at times relevant to this matter, provided Plaintiff with uninsured, underinsured, and medical payments coverage.

STATEMENT OF JURISDICTION AND VENUE

7. This Court has jurisdiction to hear this matter pursuant to Ohio Rev. Code § 2305.01.

8. This Court is the proper venue for this action, pursuant to Ohio R. Civ. P. 3(C)(3) and (6), as some or all of Plaintiff's claims for relief arose from the Lucas County automobile accident involving Defendant Perrin and Plaintiff Case.

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

FIRST CAUSE OF ACTION

(Negligence/Negligence *Per Se* of Yasmeen Perrin)

10. Plaintiff incorporates all the foregoing paragraphs in this cause of action by reference.
11. In operating a motor vehicle on a public roadway, Defendant Yasmeen Perrin owed a duty of care to others, including Plaintiff, to operate her vehicle in a safe and reasonable manner and in accordance with the laws of the State of Ohio.
12. Ohio Revised Code 4511.21(A) states in relevant part, that:

“no person shall drive any motor vehicle * * * in and upon any street or highway at a greater speed than will permit him to bring it to a stop within the assured clear distance ahead.”
13. While operating a motor-vehicle on March 5, 2018, at approximately 5:15 p.m., Defendant Yasmeen Perrin collided into the rear of Plaintiff Daniel Case’s vehicle on Interstate 475 in Toledo, Lucas County, Ohio.
14. At the time of the collision, Plaintiff Daniel Case was traveling ahead of Defendant Perrin and had slowed and/or was stationary due to traffic.
15. Plaintiff’s vehicle was, or should have been, reasonably discernable to Defendant Perrin before the collision.
16. Defendant Perrin had a common law and statutory duty to operate her vehicle in a safe and reasonable manner, which included operating at a speed and in manner that permitted her to bring the vehicle to a stop within the assured clear distance ahead of her.
17. Defendant Perrin failed to operate her vehicle in such a manner and collided into the rear of Plaintiff’s vehicle.
18. Defendant Perrin was cited for violating R.C. 4511.21(A).
19. Defendant Perrin’s violation of the assured clear distance ahead statute constitutes negligence *per se*.

20. As a direct and proximate result of Defendant's negligence and/or statutory violations, Plaintiff Daniel Case was injured and damaged.

21. As a direct and proximate result of Defendant's negligence, Plaintiff Daniel Case suffered serious head, neck, and back injuries, incurred medical bills for the treatment of his injuries, will incur the cost of future care and medical treatment, and incurred lost wages resulting from this collision.

22. As a direct and proximate result of Defendant's negligence, Plaintiff Daniel Case has experienced, and will continue to experience, physical and mental pain and suffering, and has lost the ability to perform or engage in his usual activities, resulting in a diminished quality of life.

SECOND CAUSE OF ACTION
(Loss of Consortium)

23. Plaintiff incorporates all the foregoing paragraphs in this cause of action by reference.

24. Plaintiffs incorporate all the foregoing paragraphs in this cause of action by reference.

25. Plaintiffs Daniel Case and Lisa Case were married at the time of the collision and remain married.

26. As a direct and proximate result of Defendant's negligence and/or statutory violations, Plaintiff Lisa Case has suffered, and continues to suffer, a loss to the companionship, society, services, consortium of her husband that she enjoyed before this accident.

27. As a direct and proximate result of Defendant's negligence and/or statutory violations, Plaintiff Daniel Case's minor child, J.C, has suffered, and continues to suffer, a loss of parental consortium with his father that he enjoyed before this accident.

WHEREFORE, Plaintiffs demand judgment in excess of \$25,000.00 in their favor and against Defendant Yasmee Perrin, in amounts to be established by the evidence at the trial of this

cause and permitted by law, together with prejudgment interest, and all other relief just and proper in this matter.

THIRD CAUSE OF ACTION
(Declaratory Judgment Against Progressive)

28. Plaintiffs incorporates all the foregoing paragraphs in this cause of action by reference.

29. At all times relevant hereto, Defendant Progressive insured Plaintiff Daniel Case under an auto insurance policy issued to Plaintiff under Policy No.: 911460980. Policy is not attached hereto as Defendant Progressive is in possession of such policy.

30. As part of the auto policy, Plaintiff specifically purchased and was provided uninsured/underinsured motorist insurance for bodily injury in the amount of \$50,000.00 for each person.

31. Said policy was in full force and effect on the March 5, 2018, accident.

32. Plaintiff has sustained considerable personal injuries and losses as a result of the March 5, 2018, accident and the negligence of Defendant Yasmeen Perrin.

33. Upon information and belief, Defendant's automobile policy is inadequate to compensate Plaintiff for the injuries and other losses caused by Defendant's negligence.

34. Accordingly, Defendant Yasmeen Perrin may be uninsured/underinsured as same is defined under Progressive's policy and Plaintiff is thereby entitled to coverage under the uninsured/underinsured motorist policy he purchased from Progressive.

WHEREFORE, in the event that it is determined that Plaintiff's damages exceeds the liability limits of Defendant Yasmeen Perrin's policy of insurance, Plaintiff respectfully request the Court declare judgment as to:

- A. Whether Plaintiff was an insured pursuant to the uninsured and/or underinsured provisions of Plaintiff's policy with Defendant Progressive; and

B. The payment obligations of Defendant Progressive under the policy issued to Plaintiff Daniel Case, including any other relief as justice requires or as this Court or the trier of fact sees fit under principles of law and equity; plus interest and costs.

Respectfully submitted,



Charles E. Boyk (0000494)
Kathleen R. Harris (0088079)
CHARLES E. BOYK LAW OFFICES, LLC
405 Madison Ave., Suite 1200
Toledo, Ohio 43604
Telephone: (419) 241-1395
Facsimile: (419) 241-8731

Attorneys for Plaintiff

JURY DEMAND

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