



NAILAH K. BYRD
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Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed:
July 2, 2019 16:27

By: CHARLES E. BOYK 0000494

Confirmation Nbr. 1753217

VIRGINIA COOK, ET AL.

CV 19 917702

vs.

MICHAEL N. BORATO

Judge: SHIRLEY STRICKLAND SAFFOLD

Pages Filed: 5

IN THE COMMON PLEAS COURT OF CUYAHOGA COUNTY, OHIO

VIRGINIA COOK,
723 S. Westwood Avenue
Toledo, Ohio 43609

and

JOHN COOK,
723 S. Westwood Avenue
Toledo, Ohio 43609

Plaintiffs,

v.

MICHAEL N. BORATO
1062 Abbieshire Avenue
Lakewood, Ohio 44107

Defendant.

) Case No.:

) Judge:

) **COMPLAINT**

) *(Jury Demand Endorsed Hereon)*

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) Attorneys for Plaintiffs

Now come Plaintiffs Virginia Cook and John Cook, by and through undersigned counsel, and hereby file this Complaint for damages arising out of an automobile collision that occurred on or about October 3, 2017. In support of their claims, Plaintiffs state as follow:

THE PARTIES

1. Plaintiff Virginia Cook and her husband John Cook are individuals and residents of Toledo, Lucas County, Ohio.
2. Defendant Michael N. Borato is an individual and a resident of Lakewood, Cuyahoga County, Ohio.

JURISDICTION AND VENUE

3. The Cuyahoga County Common Pleas Court has jurisdiction over this matter pursuant to R.C. 2305.01.
4. Venue is proper in this Court pursuant to Civil Rules 3(C)(1), 3(C)(3), and 3(C)(6), as this is the county in which the Defendant resides, the county in which the Defendant conducted activity giving rise to the claim for relief, and the county in which all or part of the claim for relief arose.
5. Pursuant to Civil Rule 8(A), Plaintiffs state that they seek a judgment in excess of \$25,000.00.

FACTUAL ALLEGATIONS

6. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
7. On or about October 3, 2017, Plaintiff Virginia Cook was the backseat, driver's side passenger in a vehicle driven by Stephanie Buboltz, who was proceeding southbound on Ontario Street in Cleveland, Cuyahoga County, Ohio.
8. Defendant Michael N. Borato was also proceeding southbound on Ontario Street, behind Ms. Buboltz's vehicle, when he failed to maintain assured clear distance ahead and struck the rear and/or driver's side of her vehicle.
9. Plaintiff Virginia Cook struck her head against the window in the collision and suffered an immediate headache/migraine. From the scene, Plaintiff went to the Cleveland Clinic emergency room, where she began treating for serious personal injuries.

FIRST CAUSE OF ACTION
(Negligence)

10. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
11. Defendant Michael N. Borato owed Plaintiff Virginia Cook a duty of care to adhere to the traffic laws of the State of Ohio and not to operate his vehicle in such a manner that may cause injury to Plaintiff.
12. Defendant breached this duty by failing to maintain assured clear distance ahead and/or by colliding with the vehicle in which Plaintiff Virginia Cook was a passenger.
13. As a direct and proximate result of Defendant's negligence and breach of his duty of care, Plaintiff Virginia Cook sustained serious personal injuries, including but not limited to injuries to her neck and head, post-concussive syndrome, headaches, cognitive impairment, memory impairment, and vertigo. Virginia was required to undergo medical care and incurred medical care costs, and she incurred great pain, suffering, severe mental anguish, and emotional distress along with other economic damages.
14. Further, Plaintiffs believe the injuries to Plaintiff Virginia Cook are permanent in nature and that she will require future medical care and incur 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 John Cook)

15. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
16. Plaintiff John Cook is Plaintiff Virginia Cook's legal spouse and has been her legal spouse at all times relevant to this Complaint.

17. Plaintiff John Cook states that as a result of the Defendant's negligence, he has been deprived of the love, affection, services, consortium, and society of his wife, Plaintiff Virginia Cook.

18. Plaintiff John Cook further states that the enjoyment and quality of his life and his ability to carry on the normal activities of his daily life with his wife have been impaired as a result of the Defendant's negligence.

WHEREFORE, Plaintiffs pray for judgment against Defendant Michael N. Borato on each of the claims against him in an amount exceeding Twenty-Five Thousand Dollars (\$25,000.00), together with interest, costs, reasonable attorney fees associated herewith, and such other relief as the Court may deem just.

Respectfully submitted,

/s/ Charles E. Boyk
Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiffs

JURY DEMAND

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

Respectfully submitted,

/s/ Charles E. Boyk
Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiffs

PRAECIPE

TO THE CLERK:

Please serve summons and Complaint upon Defendant by certified mail, return receipt requested, at their respective addresses listed on the caption.

/s/ Charles E. Boyk
Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiff