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CLERK OF COURTS

2019 CV 0335

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IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

**DOUGLAS MAUCH, Individually and as
Parent and Natural Guardian of Cooper
Mauch, Cohen Mauch, and Laney Mauch,
His Minor Children**
1726 W. Sandusky Street
Findlay, Ohio 45840

and

**AMBER MAUCH, Individually and as
Parent and Natural Guardian of Cooper
Mauch, Cohen Mauch, and Laney Mauch,
Her Minor Children**
1726 W. Sandusky Street
Findlay, Ohio 45840

Plaintiffs,

v.

TIMOTHY L. TRUMAN
232 Jackson Street, #402
Sandusky, Ohio 44870

and

CHERYL L. GARNER
232 Jackson Street, #402
Sandusky, Ohio 44870

and

**SAFECO INSURANCE COMPANY OF
ILLINOIS**
175 Berkeley Street
Boston, MA 02116

Defendants.

) Case No.:

) Judge:

) **COMPLAINT**

) *(Jury Demand Endorsed Hereon)*

) Charles E. Boyk (0000494)

) Kathleen R. Harris (0088079)

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) Attorneys for Plaintiffs

Now come Plaintiffs Douglas Mauch and Amber Mauch, Individually and as Parents and Natural Guardians of Cooper Mauch, Cohen Mauch, and Laney Mauch, their minor children, by and through undersigned counsel, and hereby file this Complaint against Defendants Timothy L. Truman and Cheryl L. Garner for injuries arising from an automobile collision that occurred on or about March 30, 2018. Plaintiffs also seek declaratory judgment against Defendant Safeco Insurance Company of Illinois regarding uninsured or underinsured motorist coverage. In support of their claims, Plaintiffs state as follows:

THE PARTIES

1. Plaintiff Douglas Mauch, his wife Amber Mauch, and their minor children Cooper Mauch, Cohen Mauch, and Laney Mauch are individuals and residents of Findlay, Hancock County, Ohio.
2. Defendant Timothy L. Truman is an individual and a resident of Sandusky, Erie County, Ohio.
3. Defendant Cheryl L. Garner is an individual and a resident of Sandusky, Erie County, Ohio.
4. Defendant Safeco Insurance Company of Illinois is an insurance company licensed to sell insurance in the State of Ohio, which issued a policy of insurance including uninsured and underinsured motorist coverage under which Plaintiff Douglas Mauch was an insured at the time of the incident described herein. A copy of the policy is attached hereto as Exhibit 1, pursuant to Civil Rule 10(D).

JURISDICTION AND VENUE

5. The Erie County Common Pleas Court has jurisdiction over this matter pursuant to R.C. 2305.01.

6. Venue is proper in this Court pursuant to Civil Rule 3(C)(1) as this is the county in which Defendants Timothy Truman and Cheryl Garner reside.
7. Pursuant to Civil Rule 8(A), Plaintiffs state that they seek a judgment in excess of \$25,000.00.

FACTUAL ALLEGATIONS

8. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
9. Around noon on or about March 30, 2018, Plaintiff Douglas Mauch was lawfully operating his vehicle eastbound on U.S. 20 in Townsend Township, Huron County, Ohio.
10. At the same time, Defendant Timothy L. Truman was operating a vehicle owned by Defendant Cheryl L. Garner westbound on U.S. 20 in Townsend Township, Huron County, Ohio.
11. Prior to operating Defendant Garner's vehicle westbound on U.S. 20, Defendant Truman had taken suboxone and an unknown number of Xanax pills. He also had a history of drug charges and a prior DUI.
12. Slumped over, Defendant Truman drove across the center line all the way into Plaintiff Douglas Mauch's eastbound lane.
13. Despite evasive action by Mr. Mauch, Defendant Truman collided with Mr. Mauch's vehicle. Both vehicles sustained heavy damage and were forced off the south side of the road, coming to rest after striking a ditch.
14. At the scene, Defendant Truman's pupils showed visible signs of being under the influence of substances. During his field sobriety test he lost focus and almost fell multiple times. He

was arrested for operating a vehicle intoxicated, and blood tests confirmed the presence of alpha-hydroxyalprazolam and buprenorphine.

15. Defendant Truman was cited for operating a vehicle under the influence, left of center, and failure to wear a seatbelt. As part of his sentence, he was fined \$1,000.00 due to it being his second OVI offense.
16. Plaintiff Douglas Mauch was transported from the scene by ambulance to Fisher-Titus Medical Center, where he began treating for serious injuries, including injuries to his back, neck, leg, arm, and head.

FIRST CAUSE OF ACTION
(Negligence – Defendant Timothy L. Truman)

17. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
18. Defendant Timothy L. Truman owed Plaintiff Douglas Mauch a duty of care to adhere to the traffic laws of the State of Ohio and not to operate the vehicle he was driving in such a manner that may cause injury to Plaintiff.
19. Defendant Truman breached these duties by driving under the influence of drugs, crossing left of center, and striking Plaintiff's vehicle.
20. As a direct and proximate result of Defendant Truman's negligence and breach of his duty of care, Plaintiff Douglas Mauch sustained serious personal injuries including but not limited to back, neck, leg, arm, and head injuries. He was required to undergo medical care and incurred medical care costs, and he incurred great pain, suffering, severe mental anguish, and emotional distress. Further, Plaintiffs believe the injuries to Douglas Mauch are permanent in nature and that he will require future medical care and medical care costs,

and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

SECOND CAUSE OF ACTION
(Negligent Entrustment – Defendant Cheryl L. Garner)

21. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
22. At all relevant times, Defendant Cheryl L. Garner was the titled owner of the vehicle Defendant Truman was driving under the influence of suboxone and Xanax at the time he crossed left of center and struck Plaintiff Douglas Mauch's vehicle.
23. Defendant Cheryl L. Garner owed a duty of care not to negligently entrust her vehicle to an inexperienced, reckless, incompetent, and/or dangerous driver.
24. Defendant Garner breached that duty of care by negligently entrusting her automobile to Defendant Truman when Defendant Garner knew or reasonably should have known that Defendant Timothy L. Truman was an inexperienced, reckless, incompetent, and/or dangerous driver, including but not limited to because of his history of drug abuse and prior DUI conviction.
25. Defendant Cheryl L. Garner's negligent entrustment of her vehicle to Defendant Truman directly and proximately caused the collision described herein.
26. As a direct and proximate result of Defendant Garner's negligent entrustment to Defendant Truman, Plaintiff Douglas Mauch sustained serious personal injuries including but not limited to back, neck, leg, arm, and head injuries. He was required to undergo medical care and incurred medical care costs, and he incurred great pain, suffering, severe mental anguish, and emotional distress. Further, Plaintiffs believe the injuries to Douglas Mauch are permanent in nature and that he will require future medical care and medical care costs,

and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

THIRD CAUSE OF ACTION

(Loss of Spousal Consortium – Plaintiff Amber Mauch)

27. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
28. Plaintiff Amber Mauch is Plaintiff Douglas Mauch's legal spouse and has been his legal spouse at all times relevant to this Complaint.
29. Plaintiff Amber Mauch states that as a result of the Defendants' negligence, she has been deprived of the love, affection, services, consortium, and society of her husband, Plaintiff Douglas Mauch.
30. Plaintiff Amber Mauch further states that the enjoyment and quality of her life and her ability to carry on the normal activities of her daily life with her husband have been impaired.

FOURTH CAUSE OF ACTION

(Loss of Parental Consortium – Cooper Mauch, Cohen Mauch, and Laney Mauch)

31. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
32. Plaintiffs Cooper Mauch, Cohen Mauch, and Laney Mauch are the minor children of Plaintiffs Douglas Mauch and Amber Mauch.
33. Plaintiffs Cooper Mauch, Cohen Mauch, and Laney Mauch state that as a result of the Defendants' negligence, they have been deprived of the love, affection, services, consortium, and society of their father, Plaintiff Douglas Mauch.

34. Plaintiffs Cooper Mauch, Cohen Mauch, and Laney Mauch further state that as a result of the Defendants' negligence, their enjoyment and quality of their life and their ability to carry on the normal activities of their daily life with their father have been impaired.

FIFTH CAUSE OF ACTION

(Declaratory Relief – Defendant Safeco Insurance Company of Illinois)

35. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.

36. Defendant Safeco Insurance Company of Illinois issued a policy of insurance to Plaintiff Douglas Mauch under which he was insured at the time of the incident described herein. That policy provided uninsured and underinsured motorist coverage.

37. Plaintiffs have complied with all conditions precedent for perfecting a claim for uninsured and/or underinsured motorist benefits against the Safeco policy.

38. At the time of the automobile collision described herein, Defendant Timothy L. Truman and/or Defendant Cheryl L. Garner either were not covered by liability insurance, or had liability policy limits lower than the uninsured/underinsured policy limits under Plaintiffs' Safeco policy.

39. As a direct and proximate result of the uninsured or underinsured Defendants' negligence, Plaintiffs have incurred or will incur the medical expenses and other related damages set forth in this Complaint, for which there is no or insufficient liability coverage. Therefore, Plaintiffs bring this claim for UM/UIM coverage against Defendant Safeco Insurance Company of Illinois.

SIXTH CAUSE OF ACTION
(Punitive Damages – Defendant Timothy Truman)

40. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though fully rewritten herein.
41. The acts of Defendant Timothy Truman described herein constitute malice as that term is used in R.C. 2315.21 and interpreted by the courts of the State of Ohio. In particular, by driving under the influence of suboxone and Xanax, Defendant Truman consciously disregarded the rights and safety of Plaintiff Douglas Mauch in a manner that had a great probability of causing substantial harm and did in fact cause that substantial harm.
42. Plaintiff is entitled to and demands punitive damages against Defendant Truman, in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiffs pray for:

- (A) Judgment against Defendants Timothy L. Truman and Cheryl L. Garner on each of the claims against them 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, and
- (B) Punitive damages against Defendant Timothy L. Truman in an amount to be determined at trial, and
- (C) A declaratory judgment in their favor stating that Plaintiff Douglas Mauch is entitled to uninsured/underinsured motorist coverage under Defendant Safeco's policy.

Respectfully submitted,



Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiffs

JURY DEMAND

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

Respectfully submitted,

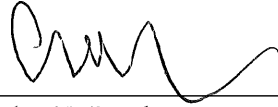


Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiffs

PRAECIPE

TO THE CLERK:

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



Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiff