

IN THE _____ COURT OF _____ COUNTY
STATE OF _____

_____)	
)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	NO. _____
)	
_____)	
Respondent/Defendant)	
)	

COMPLAINT

COMES NOW, _____ and _____, Plaintiffs, by and through their attorneys of record, and files their Complaint against the Defendant _____, and in support thereof would most respectfully show unto the Court the following, to-wit:

1. Plaintiff _____ is an adult resident citizen of _____ County, _____, whose address is _____.

2. _____ is unlicensed in _____, but eligible to do business in the State of _____, pursuant to _____ of the _____ Code, as amended, and insured the vehicle owned by the City of _____ for risk of loss by collision, said vehicle was operated by plaintiff _____ on the date of the subject accident.

3. At all times hereinafter mentioned, Defendant _____ was a corporation organized and existing under the laws of the State of _____, and was duly authorized and empowered to carry on and conduct its business in the State of _____.

_____ as a foreign corporation engaged as a _____ occurred in the City of _____, _____ County, _____.

5. At all times herein mentioned, Defendant _____ owned and operated a railroad in the City of _____, Rankin _____, _____. A portion of the tracks and right-of-way of the said railroad extends in a easterly and westerly direction over, on and across _____ Drive, which is a public drive extending in an northerly and southerly direction within said City of _____; that automatic signal lights were not installed at the crossing by defendant. That said lights were needed at the subject intersection to flash on and off to warn motorists of defendant's machinery, trains, and/or other mechanical devises. That _____ Drive is a heavily traveled and congested thoroughfare at said crossing.

6. On the _____ day of _____, 20____, at approximately _____ a.m., Plaintiff _____, and while on duty as a police patrol officer for the City of _____, was exercising due care, and was driving his police patrol car in a southerly direction on _____ Drive approaching the hereinabove described crossing, which was dark and had no flashing warning devices. As Plaintiff approached defendant's tracks, Defendant's train was backing and in a westerly direction on said tracks, and gave plaintiff no warning of its presence on said tracks. Plaintiff applied his brakes and did everything possible to avoid an impact with defendant's train, however was unable to do so and collided with said train. Plaintiff suffered serious, painful injuries as hereinafter stated.

7. Plaintiffs would further show unto this Honorable Court that in the furtherance of his master's business so that all acts of negligence of the said _____ were and are to be imputed to his employer, _____, defendant herein named.

8. Plaintiffs charge and allege that at the time and on the occasion in question and immediately prior thereto, Defendant, in addition to the negligence set forth hereinabove, was negligent in various acts and omissions, including the following, which negligence was the proximate cause or the proximate contributing cause of the incident in question:

- A. By negligently not providing flashing lights at said intersection to warn motorists of the presence of its trains, and or machinery. Said intersection was hazardous, and the absence of said flashing lights endangered the motorists using the subject public thoroughfare;
- B. By failing and neglecting to cause a flagman/watchman or other person to be stationed at the intersection for the purpose of warning the general public of its approaching machinery;
- C. By failing and neglecting to warn of the approaching machinery on seeing that an unusually dangerous situation existed and having an opportunity to realize and appreciate the danger to persons using the crossing;
- D. By running the train and/or machinery into the intersection so that it caused plaintiff _____ to collide with said train and or/machinery, without having given any signal or warning;
- E. By maintaining an unusually dangerous and extraordinarily hazardous crossing at said time and place; and
- F. By not providing proper illumination at said crossing.

9. As a direct and proximate result of the aforesaid acts and conduct of Defendant, the automobile Plaintiff was operating was demolished, and as a result thereof, plaintiff _____ was required to pay to the City of _____, its policyholder and

insured, the sum of \$_____. Plaintiff _____ subsequently obtained the sum of \$_____ for the sale of the salvage vehicle, which leaves a net amount of \$_____ for which said plaintiff _____ has subrogation rights, and brings suit for.

10. Additionally, Defendant _____ owed Plaintiff the duty to make reasonable inspections of the rails and crossings over which its trains and machinery would travel to determine if said rails and crossings were reasonably safe and reasonably protected for the motoring public using such crossing, and to remedy or have remedied any defects or dangerous conditions revealed by such inspections.

11. Plaintiff would further show that the Defendants had created an unusually dangerous condition at said crossing by allowing motor vehicles to pass over said tracks without providing proper lights and warning as said railroad crossing. Since said crossing was unreasonably dangerous, ordinary care required the railroad company to meet the peril with unusual precautions; that because of the dangerous condition resulting from the unusually high number of motorists using said crossing, the Defendants had the duty of exercising caution commensurate to the situation to avoid a collision with the Plaintiff, as by a less amount of speed or stated, was gross negligence, and was the proximate cause or proximate contributing cause of Plaintiff's accident and injuries. Plaintiff would show that the Defendants should have recognized that the said crossing was unusually dangerous, and they failed to protect the motorists traveling on said road, inasmuch as it maintained an automatic signal light at the parallel intersection of the aforesaid railroad right of way, even though the signal did not work when this particular piece of machinery crossed the intersection.

12. That as a direct and proximate result of the negligence of Defendants as aforesaid,

Plaintiff _____ sustained severe and painful injuries including, but not limited to, injuries to his head, neck, shoulders, knees and legs, and body; that Plaintiff's muscles, tendons, ligaments and tissues of the neck and back were severely sprained, strained and injured, he required hospitalization for treatment of said injuries, and he sustained lacerations and contusions to his body and face; that it was necessary for Plaintiff to be treated by a physician as a result of the injuries sustained in said accident, and Plaintiff has incurred substantial hospital, doctors, drug and other medical expenses. Plaintiff has suffered extreme physical pain, mental anguish, and discomfort. All as a result of the negligence of the Defendants. Plaintiff was free of injuries before the aforesaid accident, and free of any contributory negligence associated with the occurrence of the subject accident.

13. The aforesaid acts and omissions of the Defendants were so grossly negligent, wanton, reckless and in such complete insured, the City of _____ for loss of the vehicle operated by plaintiff _____ and has suffered a net loss in the amount of \$_____.

WHEREFORE, Plaintiff _____ brings this suit and demands judgment of and from the Defendant, in the sum of _____ Dollars and no/100 Dollars (\$_____) for actual or compensatory damages and, additionally in the sum of _____ Dollars and no/100 (\$_____) for punitive or exemplary damages; Plaintiff _____ sues and demands judgment in the amount of _____ Dollars and no/100 (\$_____), together with all costs of Court to be taxed herein.

Respectfully submitted,

Dated: _____

Name: _____

Title:

Address:

Address:

City, State, Zip:

Phone:

Fax:

E-Mail:

Attorney No.:

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed,
U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to
_____, at the following address;

THIS the ____ day of _____, 20____.
