

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

LINDA LYNN HAVERTA,)
)
 Plaintiff,)
)
 vs.) CAFN NO.
)
 BARBARA MEYER and)
 JOHN DOES 1-5,)
)
 Defendants.)

COMPLAINT FOR DAMAGES AND JURY DEMAND

Comes now Plaintiff, Linda Lynn Haverta, by and through counsel, P. Charles Scholle, and for her Complaint for Damages and Jury Demand against Defendants, Barbara Meyer and John Does 1-5, allege and state as follows:

THE PARTIES

1.

Plaintiff, Linda Lynn Haverta, is and at all material times to this action was, an individual residing in Gary, Indiana.

2.

Defendant, Barbara Meyer, is and at all material times to this action was, an individual residing in Apopka, Florida.

3.

John Does (1-5) are subject to the jurisdiction and venue of this court. The true names or capacities of Defendants named herein as John Does (1-5) [hereinafter collectively referred to as

"John Does"] are unknown to the Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will amend Complaint to show said John Does' true names and service addresses when the same have been ascertained. Plaintiff will amend Complaint to show allegations against said Defendants when such information has been obtained. Plaintiff identifies John Does 1-5 as either joint tortfeasors, employers of Defendant or additional liable parties. Plaintiff alleges on information and belief that John Does are in some manner responsible for the acts or omissions alleged herein.

STATEMENT OF JURISDICTION AND VENUE

4.

The Plaintiff is a citizen of Indiana. The Defendant is a citizen of Florida. The amount in controversy, without interests and costs, exceeds the sum or value specified in 28 U.S.C. § 1332. This incident occurred in Crisp County Georgia. Accordingly, jurisdiction and venue is conferred upon the Albany division of the federal court for the Middle District of Georgia.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

5.

On November 22, 2008, Plaintiff was safely and lawfully operating a 2004 Lexus RX330 (VIN #2T2HA31U94C019298) in the center lane of Interstate 75 north in Crisp County, Georgia.

6.

On said date and location, Defendant Meyer was operating a 2007 Chevrolet Tahoe (VIN #1GNFK13037R353562) which was originally travelling south on Interstate 75.

7.

Defendant Meyer decided she was going the wrong way and attempted a U-turn maneuver across the median, entering the northbound lane of Interstate 75.

8.

Defendant Meyer pulled onto Interstate 75 North, into the path of Plaintiff.

9.

Plaintiff, in attempting to avoid Defendant Meyer, lost control of her vehicle which flipped and came to rest in the median of Interstate 75.

10.

Defendant Meyer was cited for Driving under the influence in violation of O.C.G.A. § 40-6-391 and violation of O.C.G.A. § 40-6-50.

LEGAL CLAIMS

Count I – Negligence and Recklessness

11.

Defendant Meyer had a duty to operate her vehicle in a safe and reasonable manner, maintain a proper look-out and obey all traffic laws of the State of Georgia.

12.

Defendant Meyer operated her vehicle in a negligent and reckless fashion, including but not limited to the following:

- (a) Driving unlawfully on a divided highway in violation of O.C.G.A. § 40-6-50;
- (b) Failing to maintain her lane in violation of O.C.G.A. § 40-6-48;
- (b) Driving in a reckless disregard for the safety of others in violation of O.C.G.A. § 40-6-390;
- (c) Driving below the minimum speed on a controlled access highway. O.C.G.A. § 40-6-184;

- (d) Performing an illegal U-turn in violation of O.C.G.A. § 40-6-121;
- (e) Driving under the influence in violation of O.C.G.A. § 40-6-391;
- (f) Failing to exercise ordinary diligence in violation of O.C.G.A. § 51-1-2-64;
- (e) Failure to maintain reasonable control of vehicle;
- (b) Failure to operate vehicle in a safe fashion under the circumstances then existing;
- (c) Failure to take evasive or other reasonable action in order to control vehicle and maintain lane;
- (d) Failure to exercise ordinary care;
- (e) Failure to keep a proper lookout; and
- (f) Committing other reckless and negligent acts and omissions, as shall be shown by the evidence and proven at trial.

13.

Defendant Meyer's negligence was a direct and proximate cause of injuries sustained by Plaintiff resulting in damages to Plaintiff as further described below.

Count II – Special and General Damages

14.

Plaintiff repeats and re-alleges, as though fully set forth herein, all allegations and matters contained in rhetorical paragraphs 1 through 13 above and make them the same as to all allegations contained within Count II.

15

As a direct, sole, and proximate result of the aforementioned negligence and wrongful conduct of Defendant Meyer, Plaintiff is entitled to recover any and all damages resultant from her injuries, as permitted under Georgia law.

16.

Said damages include economic damages and non-economic damages, and loss of enjoyment of life.

17.

As a result of Defendant's negligent and reckless acts, Plaintiff lost wages and income, suffered physical and mental pain and incurred medical expenses of approximately \$23,610 as of the filing of this Complaint.

18.

Plaintiff also claims future lost wages, medical expenses, pain and suffering, loss of enjoyment of life, loss of capacity to work and all other damages recoverable under Georgia law.

Count III – Punitive Damages

19.

Plaintiff repeats and re-alleges, as though fully set forth herein, all allegations and matters contained in rhetorical paragraphs 1 through 18 above and make them the same as to all allegations contained within Count III.

20.

Pursuant to O.C.G.A. § 51-12-5.1, Defendant Meyer is liable for punitive damages based on her reckless conduct in driving under the influence and her conscious indifference to the consequences of her actions.

21.

Defendant Meyer acted with reckless disregard for the safety and well-being of the public as stated aforesaid, including Plaintiff, even though she knew that her dangerous actions could result in injury and death.

22.

Defendant Meyer's actions showed willful misconduct, malice, fraud, wantonness, oppression or that entire want of care which would raise the presumption of conscious indifference to consequences so as to entitle Plaintiff to punitive damages against her in accordance with O.C.G.A. § 51-12-5.1.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, by counsel, respectfully requests that she be granted the following relief:

- (a) That a copy of the Summons and Complaint be served upon Defendant and each John Doe Defendant later named;
- (b) That she have a trial by jury as to each and every appropriate issue;
- (c) A judgment against each named Defendant;
- (d) The recovery of out-of-pocket expenses in an amount to be set forth more specifically by way of amendment and/or at trial;
- (e) The recovery of lost income in an amount to be set forth more specifically by way of amendment and/or at trial;
- (f) The recovery of compensatory damages for her physical pain, mental anguish and emotional distress;
- (g) The recovery of compensatory damages for her conscious pain and suffering;
- (h) An award of punitive damages in an amount sufficient to deter future similar conduct by the Defendant Meyer;
- (i) The recovery of reasonable attorney's fees and expenses of litigation;
- (j) That all costs of this action be cast against the Defendants; and

(k) Any and all such further relief as the Court may deem just and appropriate.

This _____ day of _____, 2010.

Respectfully submitted,

Charles Scholle

Georgia Bar. No. 629736

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