

DOCKET NO.: HHD-CV16-6064170-S

NICHOLAS R. JACUBY : SUPERIOR COURT
V. : JUDICIAL DISTRICT OF
HARTFORD AT HARTFORD

ADAM E. FISHER;
DOUGLAS M. FISHER; and
FRANK C. WADSWORTH : NOVEMBER 18, 2016

AMENDED COMPLAINT

FIRST COUNT: Nicholas R. Jacuby v. Adam E. Fisher and Douglas M. Fisher

1. On or about July 10, 2015, at approximately 11:00 p.m., the plaintiff, Nicholas R. Jacuby, was operating a motor vehicle in a northerly direction on Graham Road, in the town of Broad Brook, Connecticut and had reached a point on the roadway near the driveway for the premises located at 34 Graham Road.

2. At the same time and place, the defendant, Adam E. Fisher, was operating a motor vehicle owned by the defendant, Douglas M. Fisher, which was traveling in a northerly direction on Graham Road, in the town of Broad Brook and was also in the vicinity of the driveway for the premises located at 34 Graham Road.

3. At the same time and place, the defendant, Adam E. Fisher, was operating the aforementioned motor vehicle, owned by the defendant, Douglas M. Fisher, with the permission of the defendant, Douglas M. Fisher.

4. At the same time and place, the defendant, Adam E. Fisher, was operating the aforementioned motor vehicle, owned by the defendant, Douglas M. Fisher, as the agent, servant and/or employee of the defendant, Douglas M. Fisher.

5. At the same time and place, the defendant, Adam E. Fisher, was operating the aforementioned motor vehicle, owned by the defendant, Douglas M. Fisher, pursuant to the family car doctrine.

6. At the same time and place, the plaintiff, Nicholas R. Jacuby, slowed and/or brought his motor vehicle to a stop and attempted to make a left-turn into the private driveway located at the address of 34 Graham Road.

7. At the same time and place, the motor vehicle operated by the defendant, Adam E. Fisher, suddenly, and without warning, attempted to pass the plaintiff's vehicle on the left, thereby resulting in a collision of the two vehicles, all of which caused the plaintiff, Nicholas R. Jacuby, to sustain and suffer the personal injuries and losses hereinafter set forth.

8. The aforementioned collision, and the personal injuries and losses sustained and suffered by the plaintiff, Nicholas R. Jacuby, were caused by the negligence and carelessness of the defendant, Adam E. Fisher, in one or more of the following ways:

- a. in that he operated his motor vehicle at a rate of speed greater than is reasonable, having regard to the width, traffic, and use of the highways, the intersection of

streets, and weather conditions, in violation of §14-218a of the Connecticut General Statutes; and/or

- b. in that he failed to operate his motor vehicle in the right-hand lane of traffic upon said roadway, in violation of §14-230 of the Connecticut General Statutes; and/or
- c. in that he attempted to pass the plaintiff's motor vehicle when such a maneuver could not be made without interfering with the motor vehicle being overtaken, in violation of §14-232(b) of the Connecticut General Statutes; and/or
- d. in that he operated a motor vehicle upon a public highway recklessly and with disregard for the safety of others, including the plaintiff, having regard to the width, traffic and use of such highway, the intersection of streets and the weather conditions, in violation of §14-222 of the Connecticut General Statutes; and/or
- e. in that he operated his motor vehicle in a race upon a public highway, in violation of Connecticut General Statute §14-224; and/or
- f. in that he operated his motor vehicle under the influence of alcohol and/or drugs, in violation of Connecticut General Statutes § 14-227a; and/or
- g. in that he ingested drugs and/or alcohol prior to and/or during the operation of his motor vehicle, when he knew or should have known that doing so created a substantial risk of injury to others, including the plaintiff; and/or
- h. in that he failed to keep his motor vehicle under proper and reasonable control; and/or

- i. in that he failed to keep a proper and reasonable lookout for other vehicles on said roadway; and/or
- j. in that he failed to apply his brakes in time to avoid a collision with the plaintiff's motor vehicle, although by a proper and reasonable exercise of his faculties, he could, and should, have done so; and/or
- k. in that he was inattentive in the operation of his motor vehicle; and/or
- l. in that he failed to turn his motor vehicle so as to avoid a collision with the plaintiff's motor vehicle, although by a proper and reasonable exercise of his faculties, he could, and should, have done so; and/or
- m. in that he failed to sound his horn or otherwise warn the plaintiff of the impending collision.

9. As a result of the aforementioned collision, and the negligence and carelessness of the defendant, Adam E. Fisher, the plaintiff, Nicholas R. Jacuby, sustained and suffered personal injuries and losses. The plaintiff was transported by ambulance to Hartford Hospital for emergent medical care and treatment. Subsequent examinations and diagnostic studies revealed that the plaintiff suffered personal injuries and losses including a left acetabular fracture; a right tibia fracture; a left femur fracture; a left medial malleolus fracture; a pulmonary embolism; scarring; great pain and anguish; injuries to the nerves, muscles, and soft tissues of his body, the extent of which are presently unknown; and a shock to his entire nervous system, some, or all, of which injuries are, or are likely to be, of a permanent nature.

10. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been forced to incur financial obligations for hospital and medical care and treatment, diagnostic studies, surgeries; physical therapy, medicines and the like, and may be obligated for further such sums in the future.

11. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been, and in the future will likely continue to be, unable to pursue his usual activities to the same extent as prior to the accident, all to his further loss and detriment.

SECOND COUNT: Nicholas R. Jacuby v. Adam E. Fisher

1. On or about July 10, 2015, at approximately 11:00 p.m., the plaintiff, Nicholas R. Jacuby, was operating a motor vehicle in a northerly direction on Graham Road, in the town of Broad Brook, Connecticut and had reached a point on the roadway near the driveway for the premises located at 34 Graham Road.

2. At the same time and place, the defendant, Adam E. Fisher, was operating a motor vehicle owned by the defendant, Douglas M. Fisher, which was traveling in a northerly direction on Graham Road, in the town of Broad Brook and was also in the vicinity of the driveway for the premises located at 34 Graham Road.

3. At the same time and place, the plaintiff, Nicholas R. Jacuby, slowed and/or brought his motor vehicle to a stop and attempted to make a left-turn into the private driveway located at the address of 34 Graham Road.

4. At the same time and place, the motor vehicle operated by the defendant, Adam E. Fisher, suddenly, and without warning, attempted to pass the plaintiff's vehicle on the left, thereby resulting in a collision of the two vehicles, all of which caused the plaintiff, Nicholas R. Jacuby, to sustain and suffer the personal injuries and losses hereinafter set forth.

5. The aforementioned collision, and the personal injuries and losses sustained and suffered by the plaintiff, Nicholas R. Jacuby, were caused by the willful, wanton and reckless behavior of the defendant, Adam E. Fisher, in one or more of the following ways:

- a. in that he operated his motor vehicle at a rate of speed greater than is reasonable, having regard to the width, traffic, and use of the highways, the intersection of streets, and weather conditions, in violation of §14-218a of the Connecticut General Statutes; and/or
- b. in that he failed to operate his motor vehicle in the right-hand lane of traffic upon said roadway, in violation of §14-230 of the Connecticut General Statutes; and/or
- c. in that he attempted to pass the plaintiff's motor vehicle when such a maneuver could not be made without interfering with the motor vehicle being overtaken, in violation of §14-232(b) of the Connecticut General Statutes; and/or
- d. in that he operated a motor vehicle upon a public highway recklessly and with disregard for the safety of others, including the plaintiff, having regard to the width, traffic and use of such highway, the

intersection of streets and the weather conditions, in violation of §14-222 of the Connecticut General Statutes; and/or

- e. in that he operated his motor vehicle in a race upon a public highway, in violation of Connecticut General Statute §14-224; and/or
- f. in that he operated his motor vehicle under the influence of alcohol and/or drugs, in violation of Connecticut General Statutes § 14-227a; and/or
- g. in that he knowingly ingested drugs and/or alcohol prior to and/or during the operation of his motor vehicle, when he knew or should have known that doing so created a substantial risk of injury to others, including the plaintiff.

6. As a result of the aforementioned collision, and willful, wanton and reckless behavior of the defendant, Adam E. Fisher, the plaintiff, Nicholas R. Jacuby, sustained and suffered personal injuries and losses. The plaintiff was transported by ambulance to Hartford Hospital for emergent medical care and treatment. Subsequent examinations and diagnostic studies revealed that the plaintiff suffered personal injuries and losses including a left acetabular fracture; a right tibia fracture; a left femur fracture; a left medial malleolus fracture; a pulmonary embolism; scarring; great pain and anguish; injuries to the nerves, muscles, and soft tissues of his body, the extent of which are presently unknown; and a shock to his entire nervous system, some, or all, of which injuries are, or are likely to be, of a permanent nature.

7. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been forced to incur financial obligations for hospital and medical care and treatment, diagnostic studies, surgeries; physical therapy, medicines and the like, and may be obligated for further such sums in the future.

8. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been, and in the future will likely continue to be, unable to pursue his usual activities to the same extent as prior to the accident, all to his further loss and detriment.

THIRD COUNT: Nicholas R. Jacuby v. Adam E. Fisher

1-4. Paragraphs 1 through 4 of the Second Count are hereby incorporated and re-alleged as Paragraphs 1 through 4 of the Third Count as if more fully set forth herein.

5. The aforementioned collision, and the personal injuries and losses sustained and suffered by the plaintiff, Nicholas R. Jacuby, were caused by the willful, wanton and reckless behavior of the defendant, Adam E. Fisher, in one or more of the following ways:

- a. in that he operated his motor vehicle at a rate of speed greater than is reasonable, having regard to the width, traffic, and use of the highways, the intersection of streets, and weather conditions, in violation of §14-218a of the Connecticut General Statutes; and/or
- b. in that he operated his motor vehicle under the influence of alcohol and/or drugs, in violation of Connecticut General Statutes § 14-227a; and/or

- c. in that he operated a motor vehicle upon a public highway recklessly and with disregard for the safety of others, including the plaintiff, having regard to the width, traffic and use of such highway, the intersection of streets and the weather conditions, in violation of §14-222 of the Connecticut General Statutes.

6. One of more of the aforesaid violations was a substantial factor in causing the injuries set forth hereinafter.

7. As a result of the aforementioned collision, and willful, wanton and reckless behavior of the defendant, Adam E. Fisher, the plaintiff, Nicholas R. Jacuby, sustained and suffered personal injuries and losses. The plaintiff was transported by ambulance to Hartford Hospital for emergent medical care and treatment. Subsequent examinations and diagnostic studies revealed that the plaintiff suffered personal injuries and losses including a left acetabular fracture; a right tibia fracture; a left femur fracture; a left medial malleolus fracture; a pulmonary embolism; scarring; great pain and anguish; injuries to the nerves, muscles, and soft tissues of his body, the extent of which are presently unknown; and a shock to his entire nervous system, some, or all, of which injuries are, or are likely to be, of a permanent nature.

8. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been forced to incur financial obligations for hospital and medical care and treatment, diagnostic studies, surgeries; physical therapy, medicines and the like, and may be obligated for further such sums in the future.

9. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been, and in the future will likely continue to be, unable to pursue his usual activities to the same extent as prior to the accident, all to his further loss and detriment.

10. This count is brought pursuant to §14-295 of the Connecticut General Statutes.

FOURTH COUNT: Nicholas Jacuby v. Frank C. Wadsworth

1. On or about July 10, 2015, at approximately 11:00 p.m., the plaintiff, Nicholas R. Jacuby, was operating a motor vehicle in a northerly direction on Graham Road, in the town of Broad Brook, Connecticut and had reached a point on the roadway near the driveway for the premises located at 34 Graham Road.

2. At the same time and place, the defendant, Frank C. Wadsworth, was operating a motor vehicle which was traveling in a northerly direction on Graham Road, in the town of Broad Brook and was also in the vicinity of the driveway for the premises located at 34 Graham Road.

3. At the same time and place, the defendant, Frank C. Wadsworth, was operating his motor vehicle in a race with the motor vehicle operated by one Adam E. Fisher.

4. At the same time and place, the plaintiff, Nicholas R. Jacuby, slowed and/or brought his motor vehicle to a stop.

5. At the same time and place, the motor vehicle operated by the defendant, Frank C. Wadsworth, passed the motor vehicle operated by the plaintiff, Nicholas R. Jacuby, on the left.

6. At the same time and place, the motor vehicle operated by the plaintiff, Nicholas R. Jacuby, attempted to make a left-turn into the private driveway located at 34 Graham Road.

7. At the same time and place, the motor vehicle operated by Adam E. Fisher, suddenly, and without warning, attempted to pass the plaintiff's vehicle on the left, thereby resulting in a collision of the two vehicles, all of which caused the plaintiff, Nicholas R. Jacuby, to sustain and suffer the personal injuries and losses hereinafter set forth.

8. The aforementioned collision, and the personal injuries and losses sustained and suffered by the plaintiff, Nicholas R. Jacuby, were caused by the negligence and carelessness of the defendant, Frank C. Wadsworth, in one or more of the following ways:

- a. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle in a race upon a public highway, in violation of §14-224 of the Connecticut General Statutes; and/or
- b. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle at a rate of speed greater than is reasonable, having regard to the width, traffic, and use of the highways, the intersection of streets, and

weather conditions, in violation of §14-218a of the Connecticut General Statutes; and/or

- d. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle in the right-hand lane of traffic upon said roadway, in violation of §14-230 of the Connecticut General Statutes; and/or
- e. in that he caused or encouraged Adam E. Fisher to attempt to pass the plaintiff's motor vehicle when such a maneuver could not be made without interfering with the motor vehicle being overtaken, in violation of §14-232(b) of the Connecticut General Statutes; and/or
- f. in that he caused or encouraged Adam E. Fisher to operate a motor vehicle upon a public highway recklessly and with disregard for the safety of others, including the plaintiff, having regard to the width, traffic and use of such highway, the intersection of streets and the weather conditions, in violation of §14-222 of the Connecticut General Statutes; and/or
- g. in that he caused or encouraged Adam E. Fisher to operate a motor vehicle under the influence of alcohol and/or drugs, in violation of Connecticut General Statutes § 14-227a.

9. At all times herein, the defendant, Frank C. Wadsworth, knew, or should have known, that he was encouraging Adam E. Fisher to operate his motor vehicle in a manner that constituted a risk to others, including the plaintiff.

10. As a result of the aforementioned collision, and the negligence and carelessness of the defendant, Frank C. Wadsworth, the plaintiff, Nicholas R. Jacuby, sustained and suffered personal injuries and losses. The plaintiff was transported by

ambulance to Hartford Hospital for emergent medical care and treatment. Subsequent examinations and diagnostic studies revealed that the plaintiff suffered personal injuries and losses including a left acetabular fracture; a right tibia fracture; a left femur fracture; a left medial malleolus fracture; a pulmonary embolism; scarring; great pain and anguish; injuries to the nerves, muscles, and soft tissues of his body, the extent of which are presently unknown; and a shock to his entire nervous system, some, or all, of which injuries are, or are likely to be, of a permanent nature.

11. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been forced to incur financial obligations for hospital and medical care and treatment, diagnostic studies, surgeries; physical therapy, medicines and the like, and may be obligated for further such sums in the future.

12. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been, and in the future will likely continue to be, unable to pursue his usual activities to the same extent as prior to the accident, all to his further loss and detriment.

FIFTH COUNT: Nicholas Jacuby v. Frank C. Wadsworth

1. On or about July 10, 2015, at approximately 11:00 p.m., the plaintiff, Nicholas R. Jacuby, was operating a motor vehicle in a northerly direction on Graham Road, in the town of Broad Brook, Connecticut and had reached a point on the roadway near the driveway for the premises located at 34 Graham Road.

2. At the same time and place, the defendant, Frank C. Wadsworth, was operating a motor vehicle which was traveling in a northerly direction on Graham Road, in the town of Broad Brook and was also in the vicinity of the driveway for the premises located at 34 Graham Road.

3. At the same time and place, the defendant, Frank C. Wadsworth, was operating his motor vehicle in a race with the motor vehicle operated by one Adam E. Fisher.

4. At the same time and place, the plaintiff, Nicholas R. Jacuby, slowed and/or brought his motor vehicle to a stop.

5. At the same time and place, the motor vehicle operated by the defendant, Frank C. Wadsworth, passed the motor vehicle operated by the plaintiff, Nicholas R. Jacuby, on the left.

6. At the same time and place, the motor vehicle operated by the plaintiff, Nicholas R. Jacuby, attempted to make a left-turn into the private driveway located at 34 Graham Road.

7. At the same time and place, the motor vehicle operated by Adam E. Fisher, suddenly, and without warning, attempted to pass the plaintiff's vehicle on the left, thereby resulting in a collision of the two vehicles, all of which caused the plaintiff, Nicholas R. Jacuby, to sustain and suffer the personal injuries and losses hereinafter set forth.

8. The aforementioned collision, and the personal injuries and losses sustained and suffered by the plaintiff, Nicholas R. Jacuby, were caused by the willful, wanton and reckless behavior of the defendant, Frank C. Wadsworth, in one or more of the following ways:

- a. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle in a race upon a public highway, in violation of §14-224 of the Connecticut General Statutes; and/or
- b. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle at a rate of speed greater than is reasonable, having regard to the width, traffic, and use of the highways, the intersection of streets, and weather conditions, in violation of §14-218a of the Connecticut General Statutes; and/or
- c. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle in the right-hand lane of traffic upon said roadway, in violation of §14-230 of the Connecticut General Statutes; and/or
- d. in that he caused or encouraged Adam E. Fisher to attempt to pass the plaintiff's motor vehicle when such a maneuver could not be made without interfering with the motor vehicle being overtaken, in violation of §14-232(b) of the Connecticut General Statutes; and/or
- e. in that he caused or encouraged Adam E. Fisher to operate a motor vehicle upon a public highway recklessly and with disregard for the safety of others, including the plaintiff, having regard to the width, traffic and use of such highway, the intersection of streets and the weather conditions, in violation of §14-222 of the Connecticut General Statutes; and/or

- h. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle under the influence of alcohol and/or drugs, in violation of Connecticut General Statutes § 14-227a; and/or
- i. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle in a reckless manner.

9. At all times herein, the defendant, Frank C. Wadsworth, knew, or should have known, that he was encouraging Adam E. Fisher to operate his motor vehicle in a manner that constituted a risk to others, including the plaintiff.

10. As a result of the aforementioned collision, and willful, wanton and reckless behavior of the defendant, Frank C. Wadsworth, the plaintiff, Nicholas R. Jacuby, sustained and suffered personal injuries and losses. The plaintiff was transported by ambulance to Hartford Hospital for emergent medical care and treatment. Subsequent examinations and diagnostic studies revealed that the plaintiff suffered personal injuries and losses including a left acetabular fracture; a right tibia fracture; a left femur fracture; a left medial malleolus fracture; a pulmonary embolism; scarring; great pain and anguish; injuries to the nerves, muscles, and soft tissues of his body, the extent of which are presently unknown; and a shock to his entire nervous system, some, or all, of which injuries are, or are likely to be, of a permanent nature.

11. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been forced to incur financial obligations for hospital and medical care and treatment,

diagnostic studies, surgeries; physical therapy, medicines and the like, and may be obligated for further such sums in the future.

12. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been, and in the future will likely continue to be, unable to pursue his usual activities to the same extent as prior to the accident, all to his further loss and detriment.

SIXTH COUNT: Nicholas Jacuby v. Frank C. Wadsworth

1-7. Paragraphs 1 through 7 of the Fifth Count are hereby incorporated and re-alleged as Paragraphs 1 through 7 of the Fifth Count as if more fully set forth herein.

8. The aforementioned collision, and the personal injuries and losses sustained and suffered by the plaintiff, Nicholas R. Jacuby, were caused by the willful, wanton and reckless behavior of the defendant, Frank C. Wadsworth, in one or more of the following ways:

- a. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle at a rate of speed greater than is reasonable, having regard to the width, traffic, and use of the highways, the intersection of streets, and weather conditions, in violation of §14-218a of the Connecticut General Statutes; and/or
- a. in that he caused or encouraged Adam E. Fisher to operate a motor vehicle upon a public highway recklessly and with disregard for the safety of others, including the plaintiff, having regard to the width, traffic and use of such highway, the intersection of streets and the weather conditions, in violation of §14-222 of the Connecticut General Statutes; and/or

b. in that he caused or encouraged Adam E. Fisher to operate his motor vehicle under the influence of alcohol and/or drugs, in violation of Connecticut General Statutes § 14-227a.

9. One of more of the aforesaid violations was a substantial factor in causing the injuries set forth hereinafter.

10. At all times herein, the defendant, Frank C. Wadsworth, knew, or should have known, that he was encouraging Adam E. Fisher to operate his motor vehicle in a manner that constituted a risk to others, including the plaintiff.

11. As a result of the aforementioned collision, and willful, wanton and reckless behavior of the defendant, Frank C. Wadsworth, the plaintiff, Nicholas R. Jacuby, sustained and suffered personal injuries and losses. The plaintiff was transported by ambulance to Hartford Hospital for emergent medical care and treatment. Subsequent examinations and diagnostic studies revealed that the plaintiff suffered personal injuries and losses including a left acetabular fracture; a right tibia fracture; a left femur fracture; a left medial malleolus fracture; a pulmonary embolism; scarring; great pain and anguish; injuries to the nerves, muscles, and soft tissues of his body, the extent of which are presently unknown; and a shock to his entire nervous system, some, or all, of which injuries are, or are likely to be, of a permanent nature.

12. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been forced to incur financial obligations for hospital and medical care and treatment,

diagnostic studies, surgeries; physical therapy, medicines and the like, and may be obligated for further such sums in the future.

13. As a further result thereof, the plaintiff, Nicholas R. Jacuby, has been, and in the future will likely continue to be, unable to pursue his usual activities to the same extent as prior to the accident, all to his further loss and detriment.

14. This count is brought pursuant to §14-295 of the Connecticut General Statutes.

WHEREFORE, the plaintiff claims money damages.

WHEREFORE, the plaintiff claims punitive and exemplary damages as prescribed by law as to the Second and Fifth Counts.

WHEREFORE, the plaintiff claims double or treble damages pursuant to Connecticut General Statutes Section § 14-295 as to the Third and Sixth Counts.

The amount in demand exceeds \$15,000.00, exclusive of interest and costs.

Plaintiff,

BY _____
Andrew S. Groher
Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of the above was or will immediately be mailed or delivered electronically or non-electronically on November 18, 2016 to the following counsel and self-represented parties of record who were or will immediately be electronically served:

William J. Melley, III, Esq.
250 Hudson St.
Hartford, CT 06106

Jesalyn Cole, Esq.
Law Offices of Meehan Turret & Rosenbaum
108 Leigus Road, 1st Fl.
Wallingford, CT 06492

Teresa Capalbo, Esq.
Kenny & Brimmer & Mahoney, LLC
20-30 Beaver Road, Suite 103,
Wethersfield, CT 06109

Andrew S. Groher
agroher@riscassidavis.com

RisCassi and Davis, P.C.