

No. 15A56358-3

STATE COURT OF DEKALB COUNTY  
GEORGIA, DEKALB COUNTY

Date Summons Issued and Filed

SUMMONS

7-16-2015  
M. B. Gray  
Deputy Clerk

Amy Marie Kemper, as assignee of Christopher M. Brown

Deposit Paid \$ 222.00

(Plaintiff's name and address)

[ ] ANSWER

vs.

[ ] JURY

Equity Insurance Company

c/o Gregory H. Brack, Registered Agent

378 Lawrence Street

Marietta, GA 30060

(Defendant's name and address)

JURY

TO THE ABOVE-NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of State Court, Suite 230, 2nd Floor, Administrative Tower, DeKalb County Courthouse, 556 N. McDonough Street, Decatur, Georgia 30030 and serve upon the plaintiff's attorney, to wit:

James (Jay) Sadd, Esquire

(Name)

352 Sandy Springs Circle, Atlanta, GA 30328

(Address)

(404) 255-6677

(Phone Number)

Georgia Bar No. 622010

(Georgia Bar No.)

an ANSWER to the complaint which is herewith served upon you, within thirty (30) days after service upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. (Plus cost of this action.)

Defendant's Attorney

Third Party Attorney

Address

Address

Phone No.

Georgia Bar No.

Phone No.

Georgia Bar No.

TYPE OF SUIT

- Account
- Contract
- Note
- Trover

- Personal Injury
- Medical Malpractice
- Legal Malpractice
- Product Liability
- Other

Principal

\$

Interest

\$

Atty Fees

\$

Transferred From \_\_\_\_\_

**COPY**

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

STATE COURT OF  
DEKALB COUNTY, GA.  
2015 JUL 16 PM 3:40  
FILED  
*M. Brown*  
#Y: DEKALB COUNTY

AMY MARIE KEMPER, as assignee of )  
CHRISTOPHER L. BROWN, )

Plaintiffs, )

v. )

CIVIL ACTION  
FILE NO. 15A56358-3

EQUITY INSURANCE COMPANY, )

Defendant )

**COMPLAINT AND DEMAND FOR JURY TRIAL**

This case involves a liability insurer's failure to settle claims against its insured within policy limits when the insurer had a reasonable opportunity to do so. This case arises out of a tragic accident in which Christopher Brown caused an automobile accident that forever crippled Plaintiff Amy Marie Kemper. Brown was insured by Defendant Equity Insurance Company. Equity had an opportunity to pay its policy limits and settle with Ms. Kemper. Instead of settling, Equity made a counteroffer. Because Equity would not settle on reasonable terms, Ms. Kemper filed a lawsuit against Brown. On the eve of trial, Equity and Brown consented to a \$10 million judgment against Brown and in favor of Ms. Kemper. Equity also consented to Brown assigning his claims to Ms. Kemper. Ms. Kemper brings this bad faith lawsuit, therefore, as Brown's assignee.

1.

Amy Marie Kemper is a natural person.

2.

Equity Insurance Company is an insurance company that issues automobile liability insurance policies to individuals in Georgia.

3.

Equity may be and has been served with process through its registered agent, Gregory H. Brack, 378 Lawrence Street, Marietta, GA, 30060.

4.

Equity has agents selling its insurance products and doing business in DeKalb County, making venue appropriate in DeKalb County.

5.

This Court has jurisdiction over Equity.

**The Accident**

6.

On March 10, 2012, Ms. Kemper was riding her motorcycle home and obeying all traffic laws. At the same time, Christopher L. Brown was coming from the opposite direction driving a Chevy Blazer. Brown crossed the double yellow line and struck Ms. Kemper head-on (“Accident”).

7.

Mr. Brown fled the scene of the Accident but was apprehended by law enforcement after his Blazer broke down as a result of damage from the Accident.

8.

Brown admitted that at the time of the Accident he had been drinking alcohol and had taken methadone. He was charged with driving under the influence of drugs and alcohol.

9.

Brown eventually pled guilty to, *inter alia*, driving while under the influence of drugs and alcohol, causing serious injury with a vehicle, reckless driving, hit and run, driving on the wrong side of the road, failure to maintain a lane and failing to exercise due care.

10.

Ms. Kemper suffered severe and permanent bodily injury as a result of the Accident.

11.

Ms. Kemper was hospitalized from March 10, 2012, until May 25, 2012, as a result of injuries suffered in the Accident.

12.

As a result of the Accident, Ms. Kemper suffered numerous fractures and dislocations, the tearing and laceration of multiple organs and bodily tissue, nerve damage, a degloving injury and other assorted injuries. She incurred more than \$1 million in medical bills for the multiple operations and procedures necessary to treat her injuries. As a result of the Accident, she cannot walk without the aid of a prosthetic and suffers other horrific injuries.

**Equity's Failure to Settle**

13.

Prior to the Accident, Equity issued to Brown an automobile liability insurance policy, Policy No. MAG01009453, with bodily injury liability limits of \$25,000 per person ("Policy").

14.

The Policy was in effect at the time of the Accident.

15.

Equity was promptly notified of the Accident.

16.

The Policy provides coverage to Brown for legal liability arising out of the Accident.

17.

Despite knowledge that Ms. Kemper's claims against Brown involved clear liability and special damages in excess of policy limits, Equity failed to act promptly to settle Ms. Kemper's claims against Brown.

18.

On May 18, 2012, while she was in the hospital being treated for her injuries, Ms. Kemper sent a letter to Equity offering to settle her claims against Brown in exchange for payment of Policy limits ("Offer").

19.

Ms. Kemper wrote and sent the Offer herself to avoid attorneys' fees she might otherwise incur in securing payment of Brown's Policy limits. (A true and correct copy of the Offer is attached hereto as Exhibit A.)

20.

At the time of the Offer, Equity had determined that Brown was covered under the Policy with respect to the Accident.

21.

At the time of the Offer, Equity had determined that liability against Brown for causing the Accident was clear.

22.

At the time of the Offer, Equity had determined that Ms. Kemper's special damages caused by the Accident exceeded Brown's \$25,000 policy limits.

23.

The Offer provided a reasonable opportunity to settle Ms. Kemper's claims against Brown for an amount within Policy limits.

24.

In response to the Offer, Equity made a counteroffer. (A true and correct copy of the counteroffer is attached hereto as Exhibit B.)

25.

Prior to making the counteroffer, Equity did not request that Ms. Kemper assure the satisfaction of any outstanding hospital liens.

26.

Ms. Kemper never refused to assure the satisfaction of any outstanding hospital liens.

27.

Ms. Kemper rejected Equity's counteroffer.

28.

Equity retained Statewide Claim Services (“Statewide”) as a third-party adjuster to provide adjusting services to Equity with respect to Ms. Kemper’s claims against Brown.

29.

For purposes of adjusting Ms. Kemper’s claims against Brown, Statewide was Equity’s agent.

### **The Underlying Lawsuit**

30.

Her Offer having been rejected, Ms. Kemper filed a personal injury lawsuit against Brown on August 6, 2012, styled *Amy Marie Kemper v. Christopher L. Brown et al.*, Superior Court Heard County Georgia, Civil Action No. 12-v-218 (“Underlying Lawsuit”). (A true and correct copy of the complaint in the Underlying Lawsuit is attached hereto as Exhibit C.)

31.

Equity provided a defense to Brown in the Underlying Lawsuit as it was required to do under the Policy.



32.

During the course of the Underlying Lawsuit, Brown cooperated with Equity and fulfilled all conditions precedent for coverage under the Policy with respect to the Underlying Lawsuit.

33.

With Equity's knowledge and consent, Brown contended in the Underlying Lawsuit that Equity had accepted the Offer and concluded a settlement agreement.

34.

During the Underlying Lawsuit, Equity contended that it had accepted the Offer and concluded a settlement agreement.

35.

The Georgia Court of Appeals eventually ruled that Equity had rejected the Offer by making a counteroffer and that Equity failed to settle the claims against Brown. *Kemper v. Brown*, 325 Ga. App. 806, 754 S.E.2d 141 (2014), *recon. denied* (Feb. 24, 2014), *cert. denied* (Sept. 8, 2014).

36.

The Underlying Lawsuit was specially set for a trial on March 16, 2015.

**Assignment and Consent Judgment**

37.

Prior to trial of the Underlying Lawsuit, Equity determined that there was a reasonable probability that the Underlying Lawsuit would result in a judgment in favor of Ms. Kemper and against Brown in an amount exceeding \$10 million.

38.

Prior to trial of the Underlying Lawsuit, Brown agreed to allow a consent judgment in favor of Ms. Kemper and against him in the amount of \$10 million (“Consent Judgment”). (A true and correct copy of the Consent Judgment is attached hereto as Exhibit D.)

39.

Equity consented to the Consent Judgment.

40.

The amount of the Consent Judgment is reasonable.

41.

The Consent Judgment is not the product of collusion.

42.

The Consent Judgment accrues post-judgment interest at the rate of 6.25 (six and one-quarter) percent annually from May 12, 2015.

43.

Brown's agreement to allow the Consent Judgment does not void coverage under the Policy or otherwise breach any term or condition of the Policy.

44.

Brown agreed to assign to Kemper certain of his rights and claims against Equity, including the right to bring a claim of "bad faith" or negligent failure to settle against Equity ("Assignment").

45.

Equity consented to the Assignment.

46.

Ms. Kemper has the right to assert all causes of action asserted herein and, if she prevails, to recover for the same, including the amount of the Consent Judgment and all post-judgment interest.

47.

Equity handled the claims against Brown, including the Underlying Lawsuit against him, negligently and in bad faith.

48.

Equity had one or more reasonable opportunities to settle the claims against Brown within policy limits. Equity failed to adequately investigate the claims against its insured. Failing to hold its insured's financial interests in equal

consideration as to its own interests, and failing to act as a reasonably prudent liability insurer, Equity negligently, or in bad faith, failed to settle the claims, proximately causing the Consent Judgment.

49.

To the extent any actions of Statewide constitute negligence or bad faith, Equity is liable for such actions under a theory of agency and/or *respondeat superior*.

50.

Equity's decision to entrust Statewide with handling the claims against Brown constitutes negligence or bad faith and proximately caused or substantially contributed to the Consent Judgment.

51.

Equity failed to adequately vet Statewide's claims-handling history, knowledge and experience as would an ordinarily prudent liability insurer, which failure proximately caused or substantially contributed to the Consent Judgment.

52.

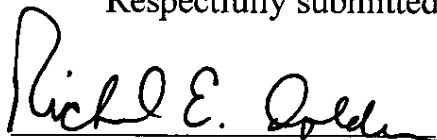
Equity failed to adequately monitor or supervise Statewide's claims-handling, including Statewide's policies and procedures for handling claims, as

would an ordinarily prudent liability insurer, which failure proximately caused or substantially contributed to the Consent Judgment.

WHEREFORE, Ms. Kemper prays for judgment in her favor against Equity for the following:

- A. That Ms. Kemper have a trial by jury;
- B. That Ms. Kemper have and recover the following:
  1. Special damages in the sum of \$10 million, representing the principal amount of the Consent Judgment;
  2. All post-judgment interest accruing on the Consent Judgment;
  3. Further special damages;
  4. Nominal damages;
  5. That all costs be taxed against Equity; and
  6. Other and further relief as the Court may deem just and proper.

Respectfully submitted on July 16, 2015.



James (Jay) Sadd  
Georgia Bar No. 622010  
Richard E. Dolder, Jr.  
Georgia Bar No. 220237  
SLAPPEY & SADD  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (telephone).  
Attorneys for Amy Kemper

Michael L. Werner  
Ga. State Bar No. 748321  
THE WERNER LAW FIRM, PC  
2142 Vista Dale Court  
Atlanta, Georgia 30084  
770-414-5306  
[mike@wernerlaw.com](mailto:mike@wernerlaw.com)  
Attorney for Amy Kemper

5-18-2012

MR DAVO CHOP  
STATE WIDE CLAIM SERVICES  
PO Box 701749  
Dallas, TX 75370

Claim no# MAF 01909453 - 000 - 001  
YOUR ENSURED: CHRISTOPHER L. BROWN

DEAR MR CHOP,

I Apologize for the handwriting, But I am writing with a broken arm. Additionally, I have a broken pelvis and leg. All of these injuries were sustained when your insured crashed into me. Your client was charged with reckless driving, DUI, and several other violations.

I, later discovered he has had two other DUI's.

Enclosed is the Police Report, and I understand you already may have some of my medical bills. Please send all the insurance money that Mr. Brown had under his insurance policy, In exchange, I will agree to sign a limited release.

The release must not have any language saying that I will have to pay Mr. Brown or his insurance company any of their incurred costs.



THE CHECK SHOULD BE MADE PAYABLE  
TO AMY M KEMPER and ~~I must~~ THE CHECK  
and released must BE DELIVERED to my address  
at 55 PAGES LANDING LANE  
NEUMAN, GA 30263

IT MUST BE DELIVERED NO LATER THAN JUNE 8TH,  
2012, (21 days) FROM TODAY'S DATE.

I HAVE BEEN IN THE HOSPITAL OVER TWO MONTHS AND  
WHEN I AM RELEASED, I WOULD LIKE TO  
KNOW THE CHECK IS THERE WHEN I ARRIVE HOME.  
OR WILL BE COMING SHORTLY AFTER ARRIVING  
HOME.

IF YOU FAIL TO MEET MY DEMAND,  
I WILL BE FORCED TO HIRE AN ATTORNEY  
AND SUE MR BROWN AND YOUR COMPANY.  
PLEASE DO NOT CONTACT ME, OR MY FRIENDS  
AS THIS DEMAND IS VERY SIMPLE.

Thank you for your time.

Respectfully,  
Amy Kemper



STATEWIDE CLAIMS SERVICE  
PO BOX 701749  
DALLAS, TX 75370

Phone (800) 993-3226 \* Fax (866) 788-4690

06/05/2012

AMY M. KEMPER  
55 PACES LANDING LANE  
NEWNAN, GA 30263

Re: Claim Number: MAG01009453-001-001  
Date of Loss: 03/10/2012  
Named Insured: CHRISTOPHER L BROWN  
Company: EQUITY INSURANCE COMPANY

STATEWIDE CLAIMS SERVICE is the Third Party Administrator for EQUITY INSURANCE COMPANY.

Dear Ms. Amy M. Kemper:

This is to confirm the receipt of your letter dated May 18, 2012 to resolve your injury claim. We are in agreement with you in regards to the assessment of your injury and are tendering our insured's policy limits of \$25,000 to settle the claim.

Please find the attached settlement check along with the limited release. In addition to the release, I have included a Medicare form to be returned. The form confirms that you are not a Medicare recipient. If you are a recipient please respond and I will send you a different form to be returned.

In concluding the settlement, we are entrusting that you place money in an escrow account in regards to any and all liens pending. This demand is being asserted to protect the lien's interest and in accordance with the recent case law, Southern General Insurance Co. vs. Wellstar Health System, Inc.

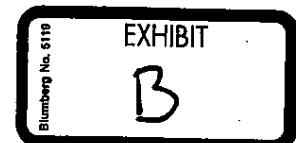
I have enclosed an envelope to return the notarized release. Please contact me at the number listed below if you have any questions.

Sincerely,

STATEWIDE CLAIMS SERVICE

DAVE CHOP  
Claims Representative  
Phone: (972) 233-4134  
Fax: (972) 233-4199

UTLRA 02/27/2012





# SECOND ORIGINAL

## IN THE SUPERIOR COURT OF HEARD COUNTY STATE OF GEORGIA

AMY MARIE KEMPER	)	
	)	
	)	
plaintiff	)	
	)	
vs.	)	CIVIL ACTION
	)	NUMBER _____
CHRISTOPER LYNN BROWN	)	
JOHN DOES (1-5),	)	
ABC COMPANY, XYZ COMPANY	)	
	)	
defendants	)	

### COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff in the above-styled action, and states as follows:

1.

Defendant CHRISTOPHER L. BROWN resides at 811 Miller Road in Hogansville, GA 30230 and is subject to the jurisdiction of This Court.

2.

Defendant Brown may be served at 811 Miller Road in Hogansville, GA 30230.

3.

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 sue said defendants by such fictitious names. Plaintiff will amend the complaint to show said John Does' true names when the same have been ascertained. Plaintiff allege on information and belief that John Does may also be jointly responsible for the acts or omissions alleged herein.



4.

The true names or capacities of Defendants named herein as ABC Company and XYZ Company are unknown to the Plaintiff, who therefore sue said Defendants by such fictitious names. Plaintiff will amend the Complaint to show said defendants' true names when the same have been ascertained. Plaintiff allege on information and belief that said Defendants may in some manner be responsible for the acts or omissions alleged herein.

5.

Defendant Brown drove his vehicle in a southerly direction on US-29/GA-14 in Coweta County, Georgia.

6.

That Plaintiff was riding her motorcycle in a northerly direction on US-29/GA-14 heading towards Defendant Brown.

7.

Defendant Brown was operating a motor vehicle in a reckless and negligent manner while talking on his cell phone and failed to maintain his lane and struck Amy Kemper head-on in the north bound lane.

8.

After the collision, Defendant Brown fled the scene and kept traveling south, failing to stop and check on Plaintiff Amy Kemper.

9.

Defendant Brown's vehicle broke down approximately one mile south of the wreck due to the damage to his vehicle that resulted from the collision.

10.

Police arrived on the scene and Defendant Brown admitted that he was under the influence and had consumed alcohol and methadone prior the wreck.

11.

That as a direct and proximate result of Defendant Brown's negligence, recklessness, intoxication and willful and wanton acts and behavior, Plaintiff Amy Kemper, suffered, and will continue to suffer, severe physical injuries, pain and suffering, emotional and mental distress.

12.

As a direct and proximate result of the Defendant Brown's negligence, recklessness, intoxication and willful and wanton acts and behavior, the Plaintiff, Amy Kemper, incurred medical expenses, in an amount to be proven at trial, for the treatment of the injuries caused solely and proximately by the Defendant.

13.

As a direct and proximate result of the Defendant's negligence, recklessness, intoxication and willful and wanton acts and behavior, the Plaintiff, Amy Kemper, will incur future medical expenses, in an amount to be proven at trial, for the treatment of the injuries caused solely and proximately by Defendants.

14.

As a direct and proximate result of the Defendant's negligence, recklessness, intoxication and willful and wanton acts and behavior, the Plaintiff, Amy Kemper, incurred and will continue to incur lost wages, in an amount to be proven at trial.

15.

As a direct and proximate result of the Defendant's negligence, recklessness, intoxication and willful and wanton acts and behavior Plaintiff, Amy Kemper, incurred the following damages and the Plaintiff is entitled to recover from the Defendants the following: bodily injury, permanent injury and impairment; past and future pain and suffering; loss of enjoyment of life; loss of

capacity to work and labor; decreased earning capacity; past and future lost earnings; past and future medical expenses and punitive damages in an amount to be proven at trial.

16.

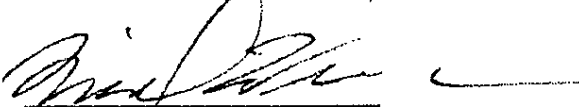
The Plaintiff, Amy Kemper, is entitled to recover from defendants such reasonable sums as compensatory, general, special and punitive damages as may be shown by the evidence.

**WHEREFORE Plaintiff pray:**

1. That Defendant be served with summons, process and a copy of this Complaint as provided by law;
2. That the Plaintiff obtain judgment against the Defendant for special, general and punitive damages as determined at trial as well as costs of litigation and expenses;
3. That the Plaintiff be granted a trial by jury as to all triable issues in this cause; and
4. For such other and further relief as this Court deems just and equitable under all circumstances alleged and contained herein.

This 31<sup>st</sup> day of July, 2012.

WERNER & ASSOCIATES, PC

  
Michael Werner  
Georgia Bar No. 748321

Counsel for Plaintiff

WERNER & ASSOCIATES, PC  
2142 Vista Dale Court  
Atlanta, GA 30084  
(770) 414-5306

IN THE SUPERIOR COURT OF HEARD COUNTY  
STATE OF GEORGIA

AMY MARIE KEMPER,

Plaintiff,

v.

CHRISTOPHER LYNN BROWN,

Defendant.

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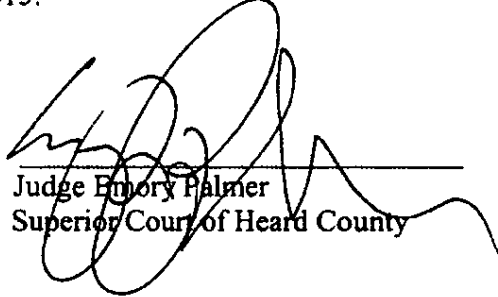
CAFN.: 12-V-218

**CONSENT JUDGMENT NUNC PRO TUNC**

This matter having come before the Court on May 12, 2015, IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff Kemper recover from Defendant Brown the sum of Ten Million Dollars (\$10,000,000).

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff Kemper recover from Defendant Brown post-judgment interest on the principal amount of this judgment at the statutory rate of 6.25 percent *nun pro tunc* from May 12, 2015.

Entered on this 15<sup>th</sup> day of July, 2015, by

  
\_\_\_\_\_  
Judge Emory Palmer  
Superior Court of Heard County



**CO COPY**

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

AMY MARIE KEMPER, as assignee of )  
CHRISTOPHER L. BROWN, )

Plaintiffs, )

v. )

EQUITY INSURANCE COMPANY, )

Defendant )

CIVIL ACTION )  
FILE NO. *15A56583* )

STATE COURT OF DEKALB COUNTY, GA.  
2015 JUL 16 PM 3:41  
FILED  
*M. Kelly*  
CLERK

**PLAINTIFF’S FIRST REQUESTS FOR ADMISSIONS**

Pursuant to OCGA § 9-11-36, Plaintiff propounds the following requests for admission to Defendant Equity Insurance Company.

**DEFINITIONS**

“You,” “your” or “Equity” shall mean Equity Insurance Company and any of its employees, agents, attorneys, or outside adjusters.

“Policy” shall mean that certain insurance policy referenced in the Complaint in this action.

“Underlying Lawsuit” shall refer to that lawsuit styled *Amy Marie Kemper v. Christopher L. Brown et al.*, Superior Court Heard County Georgia, Civil Action No. 12-v-218, including all appeals.

“Accident” shall mean the March 10, 2012, traffic incident that was the subject of the Underlying Lawsuit.

“Statewide” shall mean Statewide Claim Service. (For further identification, see Exhibit B to the complaint.)

“Consent Judgment” shall have the same meaning ascribed to in the complaint in this action.

### **REQUESTS**

1. Ms. Kemper was not at fault for the Accident.
2. On June 5, 2012, Equity possessed no facts indicating Ms. Kemper was at fault for the Accident.
3. Christopher L. Brown was at fault for the Accident.
4. On June 5, 2012, Equity had come to the opinion that Christopher L. Brown was at fault for the Accident.
5. Christopher L. Brown was solely at fault for the Accident.
6. On June 5, 2012, Equity had come to the opinion that no one other than Christopher L. Brown was at fault for the Accident.
7. Prior to June 5, 2012, Equity knew Mr. Brown fled the scene of the Accident.
8. Prior to June 5, 2012, Equity knew that Brown admitted to law enforcement that he had consumed alcohol on the day of the Accident.
9. Prior to June 5, 2012, Equity knew that Brown admitted to law enforcement that he had consumed methadone on the day of the Accident.
10. Prior to June 5, 2012, Equity knew that Ms. Kemper suffered severe bodily injury as a result of the Accident.
11. Prior to June 5, 2012, Equity knew that Ms. Kemper suffered permanent bodily injury as a result of the Accident.
12. Prior to June 5, 2012, Equity knew Ms. Kemper was hospitalized for at least two months as a result of injuries suffered in the Accident.

13. On or before June 5, 2012, Equity had determined that Brown was entitled to coverage under the Policy with respect to the Accident.
14. On or before June 5, 2012, Equity had determined that liability against Brown for causing the Accident was clear.
15. On or before June 5, 2012, Equity had determined that Ms. Kemper's special damages caused by the Accident exceeded \$25,000.
16. On or before June 5, 2012, Equity had determined that Ms. Kemper's general damages caused by the Accident exceeded \$25,000.
17. On or before June 5, 2012, Equity had determined that Ms. Kemper's damages caused by the Accident exceeded \$1 million dollars.
18. On or about May 18, 2012, Ms. Kemper sent to Statewide an offer to settle her claims against Brown arising out of the Accident.
19. On or about May 23, 2012, Statewide received Ms. Kemper's May 18 offer.
20. On or before June 5, 2012, Statewide informed Equity of Ms. Kemper's May 18 offer.
21. On or before June 5, 2012, Statewide provided to Equity a copy of Ms. Kemper's May 18 offer.
22. During May and June of 2012, Equity required Statewide to inform Equity of all time-limited demands to settle third-party automobile liability claims upon receipt of such a demand.
23. During May and June of 2012, Equity required Statewide to provide to Equity a copy of all time-limited demands to settle third-party automobile liability claims upon receipt of such a demand.
24. During May and June of 2012, Equity required Statewide to inform Equity as to how Statewide would respond to a time-limited demand to settle a third-party automobile liability claim prior to responding.



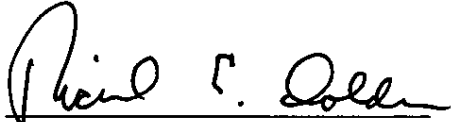
25. During May and June of 2012, Equity required Statewide to consult with Equity as to how to respond to a time-limited demand to settle a third-party automobile liability claim prior to responding.
26. During May and June of 2012, Equity required Statewide to seek instructions from Equity before responding to a time-limited demand to settle a third-party automobile liability claim.
27. Based on the facts and circumstances known to Equity and Statewide on June 5, 2012, Ms. Kemper's May 18 offer provided a reasonable opportunity to settle Ms. Kemper's claims against Brown for an amount within Policy limits.
28. Receiving Ms. Kemper's May 18 offer was within the scope of Statewide's duties to Equity.
29. Deciding how to respond to Ms. Kemper's May 18 offer was within the scope of Statewide's duties to Equity.
30. Statewide decided how to respond to Ms. Kemper's May 18 offer.
31. Equity decided how to respond to Ms. Kemper's May 18 offer.
32. Statewide and Equity consulted with each other on how to respond to Ms. Kemper's May 18 offer.
33. Statewide and Equity decided together how to respond to Ms. Kemper's May 18 offer.
34. In response to Ms. Kemper's May 18 offer, Equity made a counteroffer.
35. Equity rejected Ms. Kemper's May 18 offer.
36. In response to Ms. Kemper's May 18 offer, Statewide made a counteroffer.
37. Statewide rejected Ms. Kemper's May 18 offer.

38. In response to Ms. Kemper's May 18 offer, Statewide made a counteroffer as Equity's agent.
39. Statewide rejected Ms. Kemper's May 18 offer as Equity's agent.
40. Statewide's receipt of Ms. Kemper's May 18 offer was as a third-party administrator retained by Equity to handle the claim on Equity's behalf.
41. Statewide's response to Ms. Kemper's May 18 offer was as a third-party administrator retained by Equity to handle the claim on Equity's behalf.
42. Equity knew how Statewide would respond to Ms. Kemper's May 18 offer before Statewide responded.
43. Equity did not know how Statewide would respond to Ms. Kemper's May 18 offer before Statewide responded.
44. Prior to June 5, 2012, Equity did not request that Ms. Kemper assure the satisfaction of any outstanding hospital liens.
45. Prior to June 5, 2012, Statewide did not request that Ms. Kemper assure the satisfaction of any outstanding hospital liens.
46. Prior to June 5, 2012, Ms. Kemper did not refuse to assure the satisfaction of any outstanding hospital liens.
47. Ms. Kemper never refused to assure the satisfaction of any outstanding hospital liens.
48. Prior to June 5, 2012, Equity had no knowledge of any liens for medical services provided to Ms. Kemper for injuries arising out of the Accident.
49. Prior to June 5, 2012, Statewide had no knowledge of any liens for medical services provided to Ms. Kemper for injuries arising out of the Accident.

50. Equity retained Statewide to adjust Ms. Kemper's claims against Brown.
51. For purposes of adjusting Ms. Kemper's claims against Brown, Statewide was Equity's agent.
52. The scope of Statewide's duties for Equity included adjusting Ms. Kemper's claims against Brown.
53. The scope of Statewide's duties for Equity included investigating Brown's liability for the Accident.
54. The scope of Statewide's duties for Equity included investigating Ms. Kemper's damages caused by the Accident.
55. The scope of Statewide's duties for Equity included investigating the existence of liens for medical services provided to Ms. Kemper for injuries arising out of the Accident.
56. The scope of Statewide's duties for Equity included trying to settle the claims against Brown if there was a reasonable opportunity to do so.
57. The scope of Statewide's duties for Equity included responding to offers to settle claims against Brown arising out of the Accident.
58. Statewide had authority from Equity to settle Ms. Kemper's claims against Brown within policy limits.
59. Ms. Kemper filed the Underlying Lawsuit on or about August 6, 2012.
60. Equity provided a defense to Brown in the Underlying Lawsuit.
61. Brown cooperated with Equity during the Underlying Lawsuit.
62. Brown has fulfilled all conditions precedent for coverage under the Policy with respect to the Underlying Lawsuit.
63. With Equity's knowledge, Brown contended in the Underlying Lawsuit that Equity had accepted Ms. Kemper's May 18 offer, creating an enforceable settlement agreement.

64. With Equity's consent, Brown contended in the Underlying Lawsuit that Equity had accepted Ms. Kemper's May 18 offer, creating an enforceable settlement agreement.
65. The Underlying Lawsuit was specially set for trial on March 16, 2015.
66. Prior to trial of the Underlying Lawsuit, Brown agreed to the Consent Judgment.
67. Equity consented to the Consent Judgment.
68. The amount of the Consent Judgment is reasonable.
69. The Consent Judgment is not the product of collusion.
70. The Consent Judgment accrues post-judgment interest at the rate of 6.25 (six and one-quarter) percent annually from May 12, 2015.
71. Brown's agreement to allow the Consent Judgment does not void coverage under the Policy.
72. Brown's agreement to allow the Consent Judgment does not breach any term of the Policy.
73. Brown's agreement to allow the Consent Judgment does not breach any condition of the Policy.
74. Equity consented to Brown's assignment to Ms. Kemper.
75. Brown's assignment to Ms. Kemper does not void coverage under the Policy.
76. Brown's assignment to Ms. Kemper does not breach any term of the Policy.
77. Brown's assignment to Ms. Kemper does not breach any condition of the Policy.

Respectfully submitted on July 16, 2015.



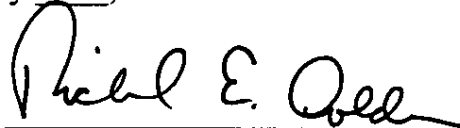
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Georgia Bar No. 622010  
Richard E. Dolder, Jr.  
Georgia Bar No. 220237  
SLAPPEY & SADD  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (telephone).  
jay@lawyersatlanta.com  
rich@lawyersatlanta.com  
Attorneys for Amy Kemper

Michael L. Werner  
Ga. State Bar No. 748321  
THE WERNER LAW FIRM, PC  
2142 Vista Dale Court  
Atlanta, Georgia 30084  
770-414-5306  
[mike@wernerlaw.com](mailto:mike@wernerlaw.com)  
Attorney for Amy Kemper

**CERTIFICATE OF SERVICE**

I certify that I caused the foregoing **First Requests for Admissions** to be served on Equity by way of personal service on Equity's registered agent, Gregory H. Brack, 378 Lawrence Street, Marietta, GA, 30060, together with and simultaneously with the complaint and summons in this action.

Respectfully submitted July 16, 2015.



Richard E. Dolder  
Georgia Bar No. 220237  
SLAPPEY & SADD, LLC  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (voice)  
[rich@lawyersatlanta.com](mailto:rich@lawyersatlanta.com)  
Attorney for Plaintiff

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STATE COURT OF  
DEKALB COUNTY, GA.

2015 JUL 16 PM 3:41

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*[Signature]*  
BY: DEPUTY CLERK

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

AMY MARIE KEMPER, as assignee of )  
CHRISTOPHER L. BROWN, )

Plaintiffs, )

v. )

CIVIL ACTION )  
FILE NO. 15456358-3

EQUITY INSURANCE COMPANY, )

Defendant )

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION**  
**OF DOCUMENTS TO EQUITY INSURANCE COMPANY**

Pursuant to OCGA § 9-11-34, Plaintiff propounds the following requests for production of documents, electronically stored information and tangible things to Defendant Equity Insurance Company. Defendant must make all responsive material available for inspection and copying at the offices of counsel for Plaintiff on the same day that written responses to these requests are due to be served. In lieu thereof, Defendant may deliver copies of responsive material to counsel for Plaintiff on the same day that written responses to these requests are due to be served. Any requests for reimbursement of copy expenses should be addressed promptly so as not to cause delay. Defendant must make all claims of privilege in a writing served upon counsel for Plaintiff on the same day that written responses to these requests are due to be served. Such claims should identify (1) the

document or thing withheld, (2) the author, (3) all recipients, (4) date, (5) the privilege or theory invoked, and (6) a description of the content sufficient to allow Plaintiffs and the Court to test the validity of privilege without revealing any privileged information.

### **DEFINITIONS**

“Document” shall include electronically stored information, photographs and voice recordings and other tangible things so that it will have the broadest possible meaning under the Georgia Civil Practice Act.

“You,” “your” or “Equity” shall mean Equity Insurance Company and any of its employees, agents, attorneys, outside adjusters or other contractors.

“Policy” shall mean that certain insurance policy referenced in the Complaint filed in this action.

“Underlying Lawsuit” shall refer to that lawsuit styled *Amy Marie Kemper v. Christopher L. Brown et al.*, Superior Court Heard County Georgia, Civil Action No. 12-v-218, and all appeals.

“Accident” shall mean the March 10, 2012, traffic incident that was the subject of the Underlying Lawsuit.

“Statewide” shall mean Statewide Claim Service. (For further identification, see Exhibit B to the complaint.)



**REQUESTS FOR PRODUCTION**

1.

A true, correct and complete copy of the Policy.

2.

All documents that reflect or record any communication between you and Ms. Kemper regarding the Accident or Underlying Lawsuit.

3.

All documents that reflect or record any communication between you and Brown regarding the Accident or Underlying Lawsuit.

4.

All documents that reflect or record any communication between you and Statewide Claim Services regarding the Accident or Underlying Lawsuit.

5.

All documents that reflect or record any communication between you and anyone else regarding the Accident or Underlying Lawsuit.

6.

All "claims files" or other such files or systems that collect or categorize information, activities, analysis and communications regarding claims against Brown arising out of the Accident.

7.

All “claims diaries,” “activity logs,” “claim notes” or other such files or systems that collect or categorize information, activities, analysis and communications regarding the claims against Brown arising out of the Accident.

8.

All “litigation management files”, “litigated claims files” or other such files or systems that collect or categorize information, analysis and communications regarding the Underlying Lawsuit.

9.

Documents that reflect or record any reserves for Brown’s liability arising out of the Accident.

10.

Documents that reflect or record attempted or potential settlement of any claims against Brown arising out of the Accident.

11.

All claims manuals, guidelines, circulars, memoranda, bulletins, letters, reference guides, explanatory materials, checklists or other communications and documents referring or relating to claims handling, claims processing, claims investigation, coverage evaluation, settlement evaluation or similar activities (but

only with regard to policies like the Policy) in effect from March 10, 2012, to August 6, 2012.

12.

All training materials referring or relating to claims handling, claims processing, claims investigation, coverage evaluation, settlement evaluation or similar activities (but only with regard to policies like the Policy) used or disseminated within your organization or by third-party adjusters like Statewide during the five-year period preceding March 10, 2012.

13.

All claims manuals, guidelines, circulars, memoranda, bulletins, letters, reference guides, explanatory materials, checklists or other communications and documents referring or relating to your policies and procedures related to receiving, analyzing and responding to demands for settlement within policy limits in automobile liability cases in effect from May 18, 2012, to August 6, 2012.

14.

All training materials referring or relating to receiving, analyzing and responding to demands for settlement within policy limits in automobile liability cases used or disseminated within your organization or by third-party adjusters like Statewide during the five-year period preceding March 10, 2012.

15.

All claims manuals, guidelines, circulars, memoranda, bulletins, letters, reference guides, explanatory materials, checklists or other communications and documents referring or relating to your policies and procedures for considering whether to offer a monetary payment (either in response to an offer or by way of initiating negotiations) to a claimant alleging to have suffered bodily injury in an automobile accident in effect from March 10, 2012, to August 6, 2012.

16.

All training materials referring or relating to considering whether to offer a monetary payment (either in response to an offer or by way of initiating negotiations) to a claimant alleging to have suffered bodily injury in an automobile accident used or disseminated within your organization or by third-party adjusters like Statewide during the five-year period preceding March 10, 2012.

17.

All claims manuals, guidelines, circulars, memoranda, bulletins, letters, reference guides, explanatory materials, checklists or other communications and documents referring or relating to your policies and procedures for investigating the existence of liens when handling automobile liability claim in effect from March 10, 2012, to August 6, 2012.

18.

All training materials referring or relating to investigating the existence of liens used or disseminated within your organization or by third-party adjusters like Statewide during the five-year period preceding March 10, 2012.

19.

All claims manuals, guidelines, circulars, memoranda, bulletins, letters, reference guides, explanatory materials, checklists or other communications and documents referring or relating to your policies and procedures for resolving automobile liability claims that may be subject to liens in effect from March 10, 2012, to August 6, 2012.

20.

All training materials referring or relating to resolving automobile liability claims that may be subject to liens used or disseminated within your organization or by third-party adjusters like Statewide during the five-year period preceding March 10, 2012.

21.

Any agreement between you and Statewide Claim Services regarding claims handling in effect between March 10, 2012, to August 6, 2012.

22.

Documents reflecting or recording payment to Statewide Claim Services for any services it performed with respect to claims arising out of the Accident.

23.

Documents reflecting or recording complaints or allegations of poor claims handling by Statewide Claim Services with respect to claims handled on your behalf.

24.

Audits, investigations, analyses and studies conducted by you or on your behalf regarding claims-handling by Statewide Claim Services.

25.

Documents reflecting or recording your policies and procedures for investigating, analyzing or studying claims-handling conducted by others on your behalf.

26.

Documents supporting any contention you may have that any persons or entities (both parties and non-parties) are at fault and contributed to some degree to any injury or damages alleged in this action, regardless of whether the person or entity as or could have been named as a party to the suit.

27.

Any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy the judgment.

28.

Organizational charts, reporting charts, internal directories and other documents describing the structure of your organization and/or identifying individuals and their titles and responsibilities during the period beginning March 10, 2012, and ending August 6, 2012.

29.

Organizational charts, reporting charts, internal directories and other documents identifying the names, titles and responsibilities of all individuals with claims-handling responsibility in your organization during the period beginning March 10, 2012, and ending August 6, 2012.

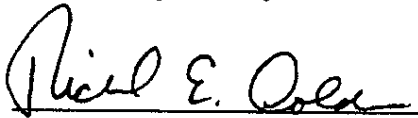
30.

Any demands, complaints, notices, notices to preserve evidence or other correspondence and communications between you and Statewide regarding the manner in which Statewide handled the claims against Brown.

31.

Any demands, complaints, notices, or other correspondence and communications between you and any insurer of Statewide regarding the manner in which Statewide handled the claims against Brown.

Respectfully submitted on July 16, 2015.



James (Jay) Sadd  
Georgia Bar No. 622010  
Richard E. Dolder, Jr.  
Georgia Bar No. 220237  
SLAPPEY & SADD  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (telephone).  
jay@lawyersatlanta.com  
rich@lawyersatlanta.com  
Attorneys for Amy Kemper

Michael L. Werner  
Ga. State Bar No. 748321  
THE WERNER LAW FIRM, PC  
2142 Vista Dale Court  
Atlanta, Georgia 30084  
770-414-5306  
[mike@wernerlaw.com](mailto:mike@wernerlaw.com)  
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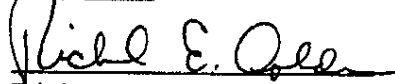
IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

AMY MARIE KEMPER, as assignee of	)	
CHRISTOPHER L. BROWN,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION
	)	FILE NO. _____
EQUITY INSURANCE COMPANY,	)	
	)	
Defendant	)	
	)	

**CERTIFICATE OF SERVICE**

I certify that I caused the foregoing **First Request for Production of Documents to Defendant Equity Insurance Company** to be served on Equity by way of personal service on Equity's registered agent, Gregory H. Brack, 378 Lawrence Street, Marietta, GA, 30060, together with and simultaneously with the complaint and summons in this action.

Respectfully submitted on July 16, 2015.

  
Richard E. Dolder  
Georgia Bar No. 220237  
SLAPPEY & SADD, LLC  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (voice)  
[rich@lawyersatlanta.com](mailto:rich@lawyersatlanta.com)  
Attorney for Plaintiff

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STATE COURT  
DEKALB COUNTY, GA  
2015 JUL 16 PM 3:41  
FILED  
*[Signature]*  
V. J. BILLY

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

AMY MARIE KEMPER, as assignee of )  
CHRISTOPHER L. BROWN, )

Plaintiffs, )

v. )

CIVIL ACTION  
FILE NO. 15A56358-3

EQUITY INSURANCE COMPANY, )

Defendant )

**PLAINTIFF'S FIRST INTERROGATORIES**  
**TO DEFENDANT EQUITY INSURANCE COMPANY**

Pursuant to OCGA § 9-11-33, Plaintiff propounds the following  
interrogatories to Defendant Equity Insurance Company:

**DEFINITIONS**

“Document” shall include electronically stored information, photographs and voice recordings and other tangible things so that it will have the broadest possible meaning under the Georgia Civil Practice Act.

“Identify,” with respect to a natural person, shall mean to provide the full name, address, telephone number, title and affiliation or employer of such person.

“Identify,” with respect to a business entity or governmental agency, shall mean to provide the full name, address, telephone number and jurisdiction of creation of such entity or agency.

“Identify,” with respect to a document, shall mean to provide a description of the document that includes its date, author, recipients and location such that the document can be reasonably located.

“You,” “your” or “Equity” shall mean Equity Insurance Company and any of its employees, agents, attorneys, or outside adjusters.

“Policy” shall mean that certain insurance policy referenced in the Complaint in this action.

“Underlying Lawsuit” shall refer to that lawsuit styled *Amy Marie Kemper v. Christopher L. Brown et al.*, Superior Court Heard County Georgia, Civil Action No. 12-v-218, including all appeals.

“Accident” shall mean the March 10, 2012, traffic incident that was the subject of the Underlying Lawsuit.

“Statewide” shall mean Statewide Claim Service. (For further identification, see Exhibit B to the complaint.)

### **INTERROGATORIES**

1.

Identify all persons who have knowledge of facts and circumstances alleged in the complaint in this lawsuit or in your answer, describing and summarizing the knowledge you believe each person possesses.

2.

Identify all persons who processed, adjusted, evaluated, acted upon, gave direction or advice, reviewed, handled or provided any other service (other than strictly clerical) regarding the investigation, analysis and decision-making as to any claims against Brown arising out of the Accident, describing the nature and dates of such person’s involvement, and identifying what decisions, evaluations or judgments each person made.

2

3.

State whether you have knowledge of the substance of any communications between you and Ms. Kemper (or anyone acting on her behalf) that is not memorialized in any document you will produce in response to requests for production served upon you contemporaneously herewith and, if so, describe the content of such communication, the date of the communication and the identity of all those who participated in or otherwise have personal knowledge of the communication.

4.

State whether prior to June 6, 2012, you ever evaluated the settlement value or potential verdict value of the claims against Mr. Brown arising out of the Accident, identifying the individuals who undertook such evaluation, explaining the conclusions reached by such individuals with respect to such value and providing the dates of such evaluations. (In addition to other responsive information, this interrogatory is intended to learn whether you set reserves on the claims, the amount of such reserves, and the date(s) you set them.)

5.

State whether prior to June 6, 2012, you ever evaluated whether Brown was at fault for the Accident, identifying the individuals who undertook such

evaluation, describing the evaluation conducted, explaining the conclusions reached and providing the dates of such evaluations and conclusions.

6.

State whether prior to June 6, 2012, you ever investigated or evaluated the existence of any liens related to health care provided to Ms. Kemper for injuries arising out of the Accident, identifying the individuals who undertook such investigation or evaluation, describing the investigation or evaluation conducted, explaining the conclusions reached and providing the dates of such investigation or evaluations.

7.

Describe your policies and procedures in effect from May 1, 2012, to August 6, 2012, for receiving, analyzing, adjusting and responding to demands and offers from claimants alleging bodily injury caused by one of your insureds, stating how such policies and procedures are communicated to your claim adjusters (including third-party claim adjusters like Statewide) and identifying all documents or other means by which you communicate such policies and procedures to your claim adjusters (including third-party claim adjusters like Statewide).

8.

Describe your policies and procedures in effect from March 10, 2012, to August 6, 2012, for investigating, analyzing, and adjusting bodily injury claims

arising out of automobile accidents, stating how such policies and procedures are communicated to your claim adjusters (including third-party claim adjusters like Statewide) and identifying all documents or other means by which you communicate such policies and procedures to your claim adjusters (including third-party claim adjusters like Statewide).

9.

Describe your policies and procedures in effect from August 6, 2012, to March 12, 2015, for providing a defense to and monitoring the defense of insureds sued by third-party claimants, stating how such policies and procedures are communicated to your claim adjusters (including third-party claim adjusters like Statewide) and identifying all documents or other means by which you communicate such policies and procedures to your claim adjusters (including third-party claim adjusters like Statewide).

10.

Regarding the time-limited demand dated May 18, 2012, and attached as Exhibit A to the complaint, explain with specificity all of your actions, communications, analysis and decisions between your receipt of the demand and June 6, 2012, including all of the reasons you responded the way you did, identifying each individual involved, explaining the role of each individual

involved in such action, communication, analysis or decision, and stating the date of each action, communication, analysis or decision.

11.

Explain the relationship between you and Statewide, including in your response the date the relationship began, the date the relationship ended (if applicable), the identities of the individuals who manage the relationship and the identity of all documents describing or governing the terms of the relationship.

12.

Describe all audits, investigations, analyses and studies conducted by you or on your behalf regarding claims-handling by Statewide, including in your response the identity of the persons engaged in such audit, investigation, analysis or study; the date of such audit, investigation, analysis or study; a summary of the results and findings of such audit, investigation, analysis or study; and the identity of all documents setting forth the results and findings of such audit, investigation, analysis or study.

13.

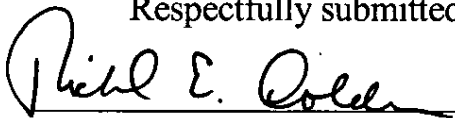
State whether you believe Statewide has ever handled a claim under an automobile policy (including Ms. Kemper's claims against Brown) in an unsatisfactory or inappropriate manner. If your answer is anything other than an unqualified "no," identify all such claims that you believe Statewide handled in an

unsatisfactory manner for the past seven (7) years, including in your response the date of the claim, the identity of the insured, the identity of the claimant, the date you came to believe that the claims-handling was unsatisfactory, the identity of all “claims files” regarding such claims and the identity of all documents expressing your dissatisfaction or alleging any unsatisfactory or inappropriate actions.

14.

Identify any and all persons or entities (both parties and non-parties) you contend are at fault and contributed to some degree to any injury or damages alleged in this action, regardless of whether the person or entity was, or could have been, named as a party to the suit. In so doing, please state when you arrived at this contention, the facts upon which you base the contention, the identity of all documents you contend support your contention, and the persons or entities who have custody of the documents supporting your contention.

Respectfully submitted on July 16, 2015.



James (Jay) Sadd  
Georgia Bar No. 622010  
Richard E. Dolder, Jr.  
Georgia Bar No. 220237  
SLAPPEY & SADD  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (telephone).  
Attorneys for Amy Kemper

Michael L. Werner  
Ga. State Bar No. 748321  
THE WERNER LAW FIRM, PC  
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Atlanta, Georgia 30084  
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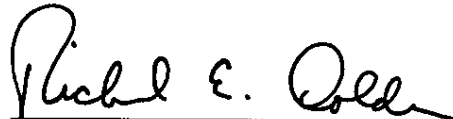
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AMY MARIE KEMPER, as assignee of	)	
CHRISTOPHER L. BROWN,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION
	)	FILE NO. _____
EQUITY INSURANCE COMPANY,	)	
	)	
Defendant	)	
	)	

**CERTIFICATE OF SERVICE**

I certify that I caused the foregoing **First Request for Interrogatories to Defendant Equity Insurance Company** to be served on Equity by way of personal service on Equity’s registered agent, Gregory H. Brack, 378 Lawrence Street, Marietta, GA, 30060, together with and simultaneously with the complaint and summons in this action.

Respectfully submitted July 16, 2015.



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SLAPPEY & SADD, LLC  
352 Sandy Springs Circle  
Atlanta, Georgia 30328  
(404) 255-6677 (voice)  
[rich@lawyersatlanta.com](mailto:rich@lawyersatlanta.com)  
Attorney for Plaintiff