

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

JOAO JUNIOR,)
) CIVIL ACTION
Plaintiff,)
) FILE NO. 13EV017893G
v.)
)
SHARON GRAHAM,)
)
Defendant.)
_____)

FIRST AMENDED COMPLAINT

COMES NOW Joao Junior, Plaintiff herein, and files his Complaint against Defendant Sharon Graham and shows this Honorable Court as follows:

1.

This claim is a renewal action filed pursuant to O.C.G.A. § 9-2-61. The previous action was filed in the Superior Court of Fulton County, Civil Action Number 2011CV208314, on November 18, 2011. All costs of the previous action have been paid pursuant to O.C.G.A. § 9-11-41(d). The previous action involved the same parties, involved substantially the same claims, and was a valid action with proper service upon Defendant Sharon Graham. The previous action in Fulton County was dismissed without prejudice by Plaintiff on March 15, 2013. This renewal action was filed within six (6) months of Plaintiff's voluntary dismissal without prejudice of the previous action.

JURISDICTION AND VENUE

2.

At all times material hereto, Plaintiff Joao Junior (hereinafter or "Plaintiff") has been a resident of the state of Georgia.

3.

At all times material hereto, Defendant Sharon H. Graham (hereinafter "Defendant") has been a resident of Fulton County, State of Georgia, and resides at 305 Abbotts Mill Drive, Duluth, GA 30097. Defendant was properly served with this lawsuit at this address.

4.

Defendant is subject to the jurisdiction of this Court, and venue is proper before this Court.

FACTS

5.

Plaintiff hereby incorporates and realleges paragraphs one (1) through four (4) above as though fully set forth herein.

6.

On March 27, 2010, just before approximately 10:39 a.m., Plaintiff was driving his 1997 Nissan Sentra west on Georgia State Road 120 (hereinafter "GA 120") inside the City of Alpharetta, Fulton County. East of GA 120's intersection with Brookside Parkway, Plaintiff brought his vehicle to a controlled stop behind John M. Grady (hereinafter "Grady") who had brought his 2000 Nissan Frontier to a stop in the inside through lane. Plaintiff was exercising due care and caution for himself and other drivers.

7.

Following behind Plaintiff was Dangad K. Korir (hereinafter "Korir") driving his 1998 Pontiac Grand Am. Following the flow of traffic, Korir brought his vehicle to a stop behind Plaintiff.

8.

Behind Korir was the Defendant, traveling westbound in the same lane in her Honda Accord EX (hereinafter "Accord"). At or about 10:39 a.m., Defendant, failing to bring her vehicle to a stop, rear-ended Korir's vehicle with her Accord with a great deal of force, pushing Korir's stopped vehicle into the rear of Plaintiff's vehicle, which was then pushed into Grady's vehicle.

9.

The impact of the collision caused injuries to Plaintiff including but not limited to herniated discs and nerve injuries, ongoing disability and significant medical expenses.

10.

Plaintiff's car was totaled in the collision and was towed from the scene.

11.

Officer Baldwin of the Alpharetta Police Department responded and investigated the incident. Officer Baldwin found the Defendant incoherent at the scene without recollection of the accident. Upon further investigation, Officer Baldwin discovered that she had been in another motor vehicle collision shortly before this collision. Defendant admitted, and later blood tests confirmed, she was under the influence of multiple psychotropic medications including Ambien and Paxil.

12.

Defendant was given a ticket for following too closely in violation of O.C.G.A. § 40-6-49. Defendant pleaded guilty to this offense on May 5, 2010.

13.

As the operator of a motor vehicle on a public street, Defendant owed other drivers and vehicle occupants on the road, including Plaintiff, the duty to exercise ordinary and reasonable care and caution to avoid injury and damage.

COUNT I - NEGLIGENCE

14.

Plaintiff hereby incorporates and realleges paragraphs one (1) through thirteen (13) above as though fully set forth herein.

15.

As the operator of a motor vehicle on a public street, Defendant owed other drivers and vehicle occupants on the road, including the Plaintiff, the duty to exercise ordinary and reasonable care and caution to avoid injury or damage.

16.

By driving under the influence, failing to keep a proper lookout, and following too closely, Defendant recklessly and negligently caused her vehicle to collide with and push Korir's vehicle into the Plaintiff's vehicle. Defendant's recklessness and negligence proximately caused Plaintiff to suffer bodily injury.

17.

Defendant is negligent per se because (1) she violated Georgia's laws regarding the operation of motor vehicles, (2) the laws were designed to prevent the type of collision involved in the subject litigation, (3) Plaintiff was a member of the class intended to be protected by said laws, and (4) the violation of said laws proximately caused Plaintiff's injuries.

COUNT II - DAMAGES

18.

Plaintiff hereby incorporates and realleges paragraphs one (1) through seventeen (17) above as though fully set forth herein.

19.

As a direct and proximate result of Defendant's negligence, negligence per se, and recklessness, Plaintiff sustained special and general damages for which he is entitled to be compensated by Defendant.

20.

As a direct and proximate result of Defendant's negligence, negligence per se, and recklessness, Plaintiff has suffered permanent impairment and permanent disability.

21.

As a direct and proximate result of Defendant's negligence, negligence per se, and recklessness, Plaintiff has incurred medical expenses in excess of \$173,463.49, the exact amount to be proven at trial.

22.

As a direct and proximate result of Defendant's negligence, negligence per se, and recklessness, Plaintiff will continue to suffer both general and special damages in the future, including expenses for future medical treatment, the exact amount to be proven at trial.

COUNT III - PUNITIVE DAMAGES AND ATTORNEYS' FEES

23.

Plaintiff hereby incorporates and realleges paragraphs one (1) through twenty-two (22) above as though fully set forth herein.

24.

Defendant's conduct, specifically, driving while under the influence of psychotropic medications, constitutes and indicates a conscious, willful, and wanton disregard for the safety of others, evincing such an entire want of care as to raise the presumption of a conscious indifference

to the consequences, and is so aggravating as to warrant, justify, and demand the imposition of punitive damages pursuant to O.C.G.A. § 51-12-5.1 to penalize and punish Defendant for her misconduct and to deter her from engaging in such aggravating conduct in the future.

25.

Defendant has acted in bad faith, has been stubbornly litigious, and has caused Plaintiff unnecessary trouble and expense by forcing Plaintiff to resort to the use of the court system in order to resolve his claim when there is no bona fide controversy. Accordingly, Plaintiff seeks attorney's fees and expenses of litigation pursuant to O.C.G.A. § 13-6-11.

Wherefore, Plaintiff prays that:

- (a) Summons and Complaint be served upon Defendant according to the law;
- (b) Plaintiff recover from Defendant a sum of damages to compensate him for his injuries and damages, including, but not limited to, his medical expenses (past and future) and pain and suffering (past, present, and future), as aforesaid;
- (c) Judgment be rendered against Defendant Sharon Graham for punitive damages to punish and to deter like or similar conduct in the future;
- (d) Plaintiff recover from Defendant a sum of damages to compensate him for attorney's fees and costs of litigation pursuant to O.C.G.A. § 13-6-11;
- (e) Plaintiff be awarded prejudgment interest on his damages as allowed by law;
- (f) Interest on the judgment be awarded at the legal rate from the date of judgment;
- (g) All costs of this action be taxed against Defendant; and
- (h) Plaintiff have any and all other relief the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for each claim for which he has a right to a jury.

This 17th day of May, 2019.

Respectfully submitted,

Brodhead Law, LLC
3350 Riverwood Parkway, Suite 2230
Atlanta, Georgia 30339
(404) 846-0100

/s/ Ben C. Brodhead
Ben C. Brodhead, Esq.
Georgia Bar No. 084127
Ashley B. Fournet, Esq.
Georgia Bar No. 271540
Attorneys for Plaintiff,
Joao Junior