

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

██████████,

Plaintiff,

v.

ARCH INSURANCE COMPANY,
VETERANS EMPOWERMENT
ORGANIZATION OF GEORGIA, INC., and
EDWARD DAVIS,

Defendants.

Civil Action No.: 21-C-02854-S1

PLAINTIFF'S COMPLAINT

Plaintiff ██████████ files this Complaint, showing the Court as follows.

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff is a Georgia resident and submits himself to the jurisdiction of this Court.

2.

Defendant Arch Insurance Company ("Arch"):

- a) is a foreign, for-profit insurance company with its principle place of business located at Harborside 3, 210 Hudson Street, Suite 300, Jersey City, New Jersey 07311;
- b) is registered to do business in Georgia;
- c) may be served through its registered agent in Gwinnett County at Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092.

3.

Defendant Veterans Empowerment Organization of Georgia, Inc. (“VEO”):

- a) is motor carrier (*see* 49 C.F.R. § 390.5);
- b) is a non-profit corporation organized under the laws of the state of Georgia, with its principal place of business located at 373 West Lake Avenue NW, Atlanta, Georgia 30318;
- c) may be served with process through its registered agent as follows: Frantz Fortune, 373 West Lake Avenue NW, Atlanta, Georgia 30318.

4.

Defendant Edward Davis (“Davis”):

- a) was at all relevant times an employee of VEO and acting within the course and scope of his employment;
- b) may be served with process at his residence as follows: 1830 Campbellton Road SW, Apt. 209, Atlanta, Georgia 30311.

5.

Jurisdiction and venue are proper in this Court because the tort occurred in Gwinnett County and Arch resides in Gwinnett County. *See* O.C.G.A. § 14-2-510; *M & M Mortg. Co. v. Grantville Mill, LLC*, 302 Ga. App. 46, 47 (2010) (holding corporation resides in the county in which it maintains its principal office and its registered agent)

FACTUAL ALLEGATIONS

The Subject Wreck

6.

On January 5, 2021, Plaintiff was driving her vehicle eastbound on Brooks Road in Gwinnett County.

7.

At approximately 11:14AM, Plaintiff was approaching Brooks Road's intersection with Brooks Pointe Court.

8.

At or around the same date and time, Davis was driving a truck owned by VEO that was stopped on Brooks Pointe Court at its intersection with Brooks Road.

9.

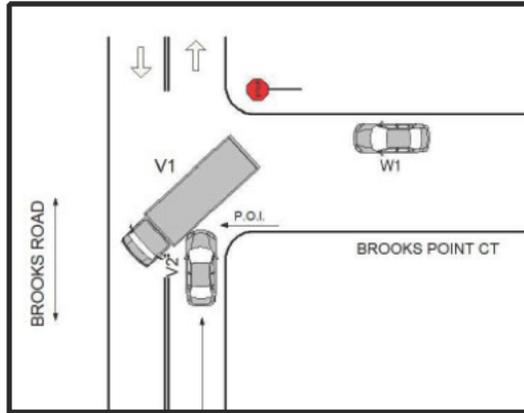
At or around the same date and time, Davis darted out from Brooks Pointe Court onto Brooks Road.

10.

Plaintiff's vehicle and Defendants' truck collided, causing disabling damage to both vehicles.

11.

The configuration of the vehicles at the time of impact, according to the Police Report, can be seen in the diagram below. "V1" represents Defendants' vehicle and "V2" represents Plaintiff's vehicle.



12.

At the time of the collision, Plaintiff had the right-of-way.

13.

Davis wrongfully failed to yield to Plaintiff.

14.

Davis admitted fault on the scene of the collision.

15.

The investigating officer found Davis to be at fault for causing the collision.

16.

The investigating officer issued Defendant a citation for failing to yield to Plaintiff in violation of O.C.G.A. § 40-6-71.

17.

Plaintiff was not at fault.

18.

Davis was acting within the course and scope of his employment with VEO at the time he negligently entered the roadway.

Damages

19.

As a direct and proximate result of Davis' negligence, Plaintiff suffered severe and permanent bodily injuries, including a shattered ankle (which required an emergency surgery), multiple broken ribs, and lacerations and bruises all over her face and body. Amputation is likely.

20.

Plaintiff also endured physical and mental pain and suffering as a direct and proximate result of the collision.

21.

Plaintiff will continue to experience physical and mental pain and suffering in the future.

22.

Plaintiff is entitled to recover for interference with her normal living, her injuries, medical expenses incurred, past and future, loss of enjoyment of life, fright, shock, and terror, pain and suffering, and all other elements of damages allowed under Georgia law, including but not limited to all compensatory, general, special, punitive, incidental, consequential, and/or other damages permitted.

LIABILITY OF VEO

23.

Davis owed Plaintiff a duty of care to drive in a safe and reasonable manner.

24.

Davis breached the duty of care owed to Plaintiff by driving in an unsafe manner and by violating Georgia's Rules of the Road, including but not limited to failing to yield the right of way. *See* O.C.G.A. § 40-6-71.

Davis' breaches of duty were both the actual and proximate cause of the bodily injuries Plaintiff suffered.

25.

Davis was negligent, and his negligence was the proximate cause of injuries to Plaintiff.

26.

Because Davis was an employee of VEO acting within the course and scope of his employment at the time he caused the collision, VEO is liable for Davis' misconduct. VEO is liable under theories of vicarious liability, respondeat superior, or agency.

27.

VEO is liable for the negligent hiring, training, supervision, and/or retention of Davis.

DIRECT ACTION

28.

Arch provided applicable liability insurance to VEO.

29.

VEO is a "motor carrier" under O.C.G.A. § 40-2-1(6)(B) because it "operates or controls commercial motor vehicles as defined in 49 C.F.R. Section 390.5 or this chapter whether operated in interstate or intrastate commerce, or both."

30.

VEO is a “motor carrier” under O.C.G.A. § 40-1-100(12)(A) because it “own[s], control[s], operat[es], or manag[es] . . . motor vehicle[s] . . . used in the business of transporting for hire . . . household goods . . . or property . . .” and because the subject truck had a GVWR greater than 10,000lbs.

31.

Because VEO was a motor carrier, Arch is subject to this direct action.

32.

Plaintiff names Arch as a party defendant and brings this case against Arch as a direct action as authorized by O.C.G.A. § 40-2-140(d)(4), O.C.G.A. § 40-1-112(c), and other applicable law.

OTHER LIABILITY

33.

Under Georgia law, a plaintiff is entitled to the expenses of litigation where the defendant has acted in bad faith, has been stubbornly litigious, or has caused the plaintiff unnecessary trouble and expense. O.C.G.A. § 13-6-11

34.

Defendants have acted in bad faith within the meaning of O.C.G.A. § 13-6-11. *Nash v. Reed*, 349 Ga. App. 381, 384 (2019).

35.

Defendants have been stubbornly litigious and have caused Plaintiff unnecessary trouble and expense within the meaning of O.C.G.A. § 13-6-11.

36.

Accordingly, Plaintiff is entitled to recover all expenses of litigation, including costs and reasonable attorney's fees incurred in pursuing this action in accordance with O.C.G.A. § 13-6-11.

CONCLUSION

37.

Plaintiff respectfully requests:

- a) that process issue as provided by law;
- b) that Plaintiff have a trial by jury against Defendants;
- c) that Plaintiff has a judgment entered in favor of Plaintiff and against Defendants;
- d) that Plaintiff be awarded all damages in amounts to be shown at trial;
- e) such other and further relief that the Court may deem just and proper under the circumstances.

Respectfully submitted this 12th day of April 2021.

BUTLER LAW FIRM

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