

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Katherine M. a minor by and through her next of friend, Amy D. McCabe, )

Plaintiff(s) )

vs. )

Daniel G. Irons, and Julia Tinsley, )

Defendant(s) )

Submitted By: Gregory D. Keith, Esquire
Address: Uricchio Howe Krell Jacobson Toporek Theos & Keith, P.A.

P.O. Box 399
Charleston, SC 29401

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016-CP - 10-

6385

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FILED
2016 NOV 29 PM 3:47
JULIE J. AMSTRONG
CLERK OF COURT

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), General (130), Breach of Contract (140), Fraud/Bad Faith (150), Failure to Deliver/Warranty (160), Employment Discrim (170), Employment (180), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case #, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Assault/Battery (370), Slander/Libel (380), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Sexual Predator (510), Permanent Restraining Order (680), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Pre-Suit Discovery (670)

Submitting Party Signature:

Date: 11/29/2016

**Note:** Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**Effective January 1, 2016,** Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**Pursuant to the ADR Rules, you are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA ]  
COUNTY OF CHARLESTON ]

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO. 2016-CP-10-6385

KATHERINE M. a minor by and through ]  
her next of friend, AMY D. MCCABE, ]

Plaintiff, ]

vs ]

DANIEL G. IRONS, and JULIA TINSLEY, ]

Defendants, ]

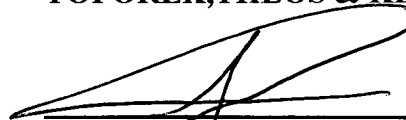
**SUMMONS**

FILED  
2016 NOV 29 PM 3:17  
CLERK OF COURT  
JULIA TINSLEY  
BY \_\_\_\_\_

TO THE DEFENDANT ABOVE-NAMED

Within 30 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the South Carolina Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Gregory D. Keith, at the address shown below. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

**URICCHIO HOWE KRELL JACOBSON  
TOPOREK, THEOS & KEITH, P. A.**



**GREGORY D. KEITH, ESQUIRE**  
17½ Broad St., P. O. Box 399  
Charleston S. Carolina 29402  
Telephone: (843) 723-7491  
Attorneys for Plaintiff

Dated: November 29, 2016

STATE OF SOUTH CAROLINA ]  
 ]  
COUNTY OF CHARLESTON ]

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO. 2016-CP-10-*6385*

KATHERINE M. a minor by and through ]  
her next of friend, AMY D. MCCABE, ]

Plaintiff, ]

vs ]

DANIEL G. IRONS, and JULIA TINSLEY, ]

Defendants, ]

**COMPLAINT**

**FILED**  
2016 NOV 29 PM 3:17  
JULIE J. ABING STUBBS  
CLERK OF COURT  
BY \_\_\_\_\_

THE PLAINTIFF above-named, complaining of the Defendants, alleges and says unto this Honorable Court as follows:

1. That the parties hereto, subject matter hereof, and all of the matters and things hereinafter complained of are within the jurisdiction of this Honorable Court.
2. That the Plaintiff was at all times hereinafter mentioned, and is still, a resident of Charleston County, South Carolina.
3. That the Defendant Daniel G. Irons, upon information and belief, at all times hereinafter mentioned, was a resident of Spartanburg County, South Carolina.
4. That the Defendant Julia Tinsley, upon information and belief, at all times hereinafter mentioned, was a resident of Charleston County, South Carolina.
5. That on November 14, 2015, at the time of the collision herein described, the Plaintiff was a passenger in a 2012 Honda automobile, owned by Jason McCabe, and operated by Amy McCabe.

6. That on or about November 14, 2015, at the time of the collision hereinafter described, Defendant Daniel G. Irons was the operator of a 2012 Volkswagon automobile, owned by Julia Tinsley, which motor vehicle was also involved in the collision hereinafter described.

7. That on the aforesaid date, the Plaintiff's vehicle was traveling in a Northerly direction on Highway 7 on Sam Rittenberg Boulevard, in the Charleston County, South Carolina.

8. That on the aforesaid date, Defendant Daniel G. Irons was traveling in a Northerly direction on Highway 7 on Sam Rittenberg Boulevard, in the Charleston County, South Carolina. Defendant Daniel G. Irons entered the travel lane of Plaintiff's vehicle and, failed to yield the right-of-way to the Plaintiff's vehicle, and, caused the collision, giving unto the Plaintiff serious and painful injuries as are hereinafter fully described.

9. That the Defendant Daniel G. Irons was careless, negligent and reckless at the time and place aforesaid in the following particulars, to-wit:

- a) in failing to maintain a proper lookout;
- b) in failing to keep his automobile under proper control;
- c) in failing to stop or yield the right-of-way to the automobile of the Plaintiff;
- d) in failing to apply his brakes;
- e) in failing to sound his horn;
- f) in driving too fast for conditions;
- g) in failing to use that degree of care and caution which an ordinarily prudent person would have exercised under the same or similar circumstances; and

h) in being otherwise careless, negligent and reckless.

ALL OF WHICH were the direct and proximate cause of the injuries and damages sustained by the Plaintiff herein, said acts being in violation of the statutory laws of South Carolina and the dictates of ordinary prudence.

## SECOND CAUSE OF ACTION

### Negligent Entrustment as to JULIA TINSLEY

10. The Plaintiff repeats and reiterates the foregoing paragraphs the same as if set forth in the Second Cause of Action verbatim.

11. That the Defendant, Julia Tinsley, was careless, negligent and reckless at the time and place above set forth in that it carelessly and negligently entrusted its motor vehicle involved in the collision to its co-Defendant, Daniel G. Irons, when she knew, or through the exercise of ordinary care, should have known that Defendant Daniel G. Irons was a reckless, careless and negligent, unsafe and incompetent driver, and that danger to third persons, and particularly this Plaintiff, would be a reasonable and probable consequence of his operation of her Volkswagon automobile.

12. That at the time and place aforesaid, the Defendant, Julia Tinsley, was careless, negligent and reckless in the following particulars, to-wit:

a) in failing and omitting to determine whether Defendant Daniel G. Irons was a safe and responsible driver before entrusting unto her the use of its vehicle, when in fact it knew, or should have known by the exercise of ordinary care that its co-Defendant, Daniel G. Irons, was an unsafe and irresponsible individual to have possession and operation of the Cadillac or motor vehicle;

b) in failing and omitting to determine whether Defendant Daniel G. Irons was a fit and proper person to be entrusted with and have the care and control of her Volkswagon, when in fact she knew, or should have known by the exercise of ordinary care, that co-Defendant Daniel G. Irons was not a fit and proper person to have responsibility, care, custody, possession and control of a dangerous instrumentality;

c) in failing and omitting to exercise that degree of care and caution which an ordinarily prudent person would have exercised under the same or similar circumstances.

ALL OF WHICH were the proximate cause of the injuries and damages sustained by the Plaintiff herein, both actual and punitive, in violation of the statutory and common laws of the State of South Carolina and the dictates of ordinary prudence.

13. That by reason of the aforesaid negligent entrustment of the Defendant Julia Tinsley, the motor vehicle being operated by its co-Defendant, Daniel G. Irons, crashed into, upon and against Plaintiff's automobile, hurling her violently and forcefully about and against the interior fittings thereof, giving unto her serious, severe, and painful injuries and damages as more fully described below.

### **THIRD CAUSE OF ACTION**

**In the Alternative, Negligently and Recklessly**

**allowing its vehicle to be operated by Defendant Daniel G. Irons**

14. The Plaintiff repeats and reiterates the foregoing allegations the same as if set forth in the Third Cause of Action verbatim.

15. That, in the alternative, assuming that the aforesaid Volkswagen automobile of the Defendant Julia Tinsley was used by Defendant Daniel G. Irons without the permission or consent of the Defendant Julia Tinsley, which is hereby expressly denied, the Defendant, Julia Tinsley, was negligent, reckless and grossly negligent in that it permitted a situation to arise whereby the Volkswagen owned by Julia Tinsley could be and was operated by its co-Defendant, Daniel G. Irons, when he knew, or should have known by the exercise of ordinary and reasonable care and diligence, that Defendant Daniel G. Irons had a considerable driving record in the State of South Carolina, and was not a safe or responsible individual to be entrusted with the care and control of such a vehicle, and would be so inclined to care for her Volkswagen automobile in a manner not conducive to the safety and interests of the travelling public, and, further, that it was foreseeable that in the event said Volkswagen was operated by or placed in the possession and control of said Defendant Daniel G. Irons that a dangerous situation could or would arise in which said vehicle could conceivably be, and in fact was, involved in an automobile collision by reason of said negligence and recklessness, thus endangering third persons, and more particularly this Plaintiff.

16. That the Defendant, Julia Tinsley, was negligent, reckless and grossly negligent in the following particulars:

- a) in failing and omitting to adequately safeguard her vehicles and the keys to its vehicles from its co-Defendant, Daniel G. Irons;
- b) in failing and omitting to adequately supervise and control her Volkswagen so that others, such as the Defendant Daniel G. Irons, would not have access thereto;



- c) in failing and omitting to adequately supervise and control her employees and drivers who were unsafe drivers;
- d) in allowing her co-Defendant to operate a vehicle owned by it when it was well know, or should have been well known, that her co-Defendant Daniel G. Irons was a reckless, incompetent, and irresponsible driver;
- e) in failing and omitting to exercise that degree of care and caution which an ordinarily prudent employer would have exercised under the same or similar circumstances.

ALL OF WHICH were the direct and proximate cause of the injuries and damages suffered by the Plaintiff herein, both actual and punitive, in violation of the statutory and common laws of the State of South Carolina and the dictates of ordinary prudence.

17. That as a direct and proximate result of the aforesaid acts of the Defendants, their agents and servants, and by reason of the aforesaid acts of carelessness, negligence, gross negligence, recklessness, willfulness and wantonness of the Defendants, their agents and servants, the motor vehicle of the Plaintiff was crashed into, upon and against by the Volkswagon of the Defendants, their agents and servants, and the Plaintiff suffered bodily harm and injury from being thrown about and within her vehicle with great force and violence.

18. That as a direct and proximate result of the aforesaid acts of the Defendants, the Plaintiff suffered severe physical harm and injury from being thrown about and within her automobile with great force and violence, all of which has and will in the future cause her to undergo medical care and treatment, expend considerable sums for medical treatment, cause her

pain and suffering, and to lose wages in the nature of income; the Plaintiff has sustained a loss of enjoyment of life and has been otherwise injured and damaged.

WHEREFORE, Plaintiff prays judgment against the Defendants for actual and punitive damages in such amount as a jury deems just and proper; for the costs and disbursements of this action; and for such other and further relief as this Court deems just and proper.

**URICCHIO, HOWE, KRELL, JACOBSON,  
TOPOREK, THEOS & KEITH, P. A.**



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**GREGORY D. KEITH, ESQUIRE**

17½ Broad St., P.O. Box 399  
Charleston, South Carolina 29402  
Tel: (803) 723-7491  
Fax: (803) 577-4179  
Attorneys for the Plaintiff

Dated: November 29, 2016