

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

LAURA FARMER,

Plaintiff,

vs.

JOANN S. MCGINNIGLE,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2018-CP-10-02606

**DEFENDANT'S ANSWER  
(Jury Trial Demanded)**

FILED  
2018 JUL -5 AM 11:56  
JULIE J ARMSTRONG  
CLERK OF COURT

**TO: GREGORY D. KEITH, ATTORNEY FOR PLAINTIFF**

The Defendant, Joann S. McGinnigle ("Defendant"), answering the Complaint of the Plaintiff, Laura Farmer ("Plaintiff"), and responding to the allegations as follows:

**FOR A FIRST DEFENSE**

1. Plaintiff sets forth matters of law in Paragraph 1 of the Complaint to which no response is required. To the extent a response is required, Defendant denies those allegations.
2. Defendant admits the allegations in Paragraphs 2, 3, 4, and 5 of the Complaint.
3. Defendant lacks sufficient knowledge and information to form a belief as to the truth of the allegations in Paragraph 6 of the Complaint, which are therefore denied.
4. Defendant admits the allegations in Paragraph 7 of the Complaint.
5. Responding to Paragraph 8 of the Complaint, Defendant admits only that an accident occurred between Plaintiff and Defendant's respective vehicles. Defendant denies the remaining allegations.

6. Responding to Paragraph 9 of the Complaint, Defendant admits simple negligence only and denies the remaining allegations.

7. Responding to the Paragraph beginning "WHEREFORE," Defendant denies that Plaintiff is entitled to the requested relief or any other relief from this Defendant.

8. Except as specifically admitted or qualified above, Defendant denies each and every allegation of the Complaint.

**FOR A SECOND DEFENSE**  
**(Failure to State a Claim)**

9. Plaintiff fails to state facts sufficient to constitute a cause of action, and therefore, the Court should dismiss the Complaint pursuant to the provisions of Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A THIRD DEFENSE**  
**(Failure to Mitigate Damages)**

10. Plaintiff failed to take prompt and reasonable action under the circumstances to avoid the occurrence of additional damages, and such failure to mitigate damages constitutes a complete defense as to that portion of damages which could have been otherwise avoided by reasonable and prompt action.

**FOR A FOURTH DEFENSE**  
**(Punitive Damages Unconstitutional - Procedural Due Process)**

11. To the extent the Complaint seeks punitive or exemplary damages, it violates Defendant's right to procedural due process under the Fourteenth Amendment of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

**FOR A FIFTH DEFENSE**  
**(Punitive Damages Unconstitutional - Substantive Due Process)**

12. To the extent the Complaint seeks punitive or exemplary damages, it violates Defendant's right to substantive due process as provided in the Fifth and Fourteenth Amendments of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

**FOR A SIXTH DEFENSE**  
**(Bifurcated Jury Trial)**

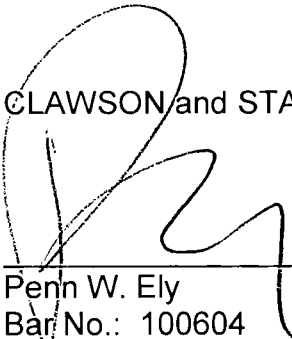
13. To the extent punitive damages are claimed, Defendant demands a bifurcated jury trial pursuant to S.C. Code § 15-32-520, and that said damages, if any, are limited to three times the amount of compensatory damages, or the sum of \$500,000.00, whichever is greater, if any.

**FOR A SEVENTH DEFENSE**  
**(Reliance on Other Defenses)**

14. Defendant hereby gives notice that she intends to rely on other affirmative defenses that may become apparent during the course of discovery, and she reserves the right to amend her Answer to assert any such defenses.

**WHEREFORE**, having fully answered the Complaint, Defendant prays for a trial by jury and that Plaintiff's Complaint be dismissed, together with the costs and disbursements of this action and for such other and further relief as this Court may deem just and proper.

[SIGNATURE PAGE TO FOLLOW]



CLAWSON and STAUBES, LLC

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Attorneys for Defendant

July 3, 2018

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing Defendant's Answer to George Farmer's Complaint was served upon the following parties on the 3rd day of July, 2018, via:

X	United States Postal Service
	Facsimile
	Electronic Email
	Via Hand Delivery

FILED  
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JULIE J. ARMSTRONG  
CLERK OF COURT  
BY

Gregory D. Keith, Esq.  
Uricchio, Howe, Krell, Jacobson, Toporek, Theos & Keith P.A.  
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Attorney For: George Farmer

Kathy Berch



Penn W. Ely  
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July 2, 2018

File No.: 20181433.000

Via Regular Mail

The Honorable Julie J. Armstrong  
Charleston County Clerk of Court  
100 Broad St Ste 106  
Charleston, SC 29401-2210

Re: Laura Farmer v. Joann S. McGinnigle  
Case No.: 2018-CP-10-2606

Dear Ms. Armstrong:

Enclosed please find an original and one copy of the Defendant's Answer to Complaint in the above-referenced case. Please file the original along with the other documents in this case and return the file stamped copy to our office in the enclosed self-addressed stamped envelope. Should you have any questions, please do not hesitate to contact me.

Thank you very much for your attention to this matter.

Very truly yours,

CLAWSON and STAUBES, LLC

Penn W. Ely

A handwritten signature in black ink, appearing to be "PWE", written over the typed name "Penn W. Ely".

PWE/sfh

Enclosure

cc: Gregory D. Keith, Esq.