

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
DEIDRE GIGLIO)
) Plaintiff,)
) vs.)
)
)
RONALD NUNN, a/k/a "RONALD)
OCHRYMOWICH" and MELISSA, a/k/a)
"MISSY" OCHRYMOWICH)
) Defendant.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

CASE NO.: 2018_-CP-10-2890

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

<p>Plaintiff's Attorney: John T. Gentry, III, Bar No. 101527 Address: P.O. Box 1867 Charleston, SC 29402 Phone: 843.720.3737 Fax 843.577.0460 E-mail: john@clekis.com Other: _____</p>	<p>Defendant's Attorney: Mark A. Mason, Esq. - The Mason Law Firm, P.A. Salah H. Hibri, Esq. - The Mason Law firm, P.A. Edwin Whitner Slagsvol, Esq. - The Slagsvol Law Firm, Bar No. _____ Address: The Mason Law Firm: Tidewatch Centre on Shem Creek 465 W. Coleman Blvd. Suite 302 Mt. Pleasant, SC Slagsvol Law Firm: 460 King Street, Suite 200 Charleston, SC 29403 Phone: Mason: 843.884.1444 Salgsvol: 843.804.8502 Fax _____ E-mail: mark@masonlawfirm.com salah@masonlawfirm.com whit@slagsvollaw.com Other: _____</p>
<p><input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)</p>	

SECTION I: Hearing Information

Nature of Motion: Motion For Leave To Add Party

Estimated Time Needed: 10 minutes

Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant

11/30/2018

Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ 25.⁰⁰

EXEMPT:

(check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRCP)
- Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
- Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.

Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: \$ _____

CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 DEIDRE GIGLIO,)
)
 Plaintiff,)
)
 vs.)
)
 RONALD NUNN, a/k/a "RONALD)
 OCHRYMOWICH" and MELISSA,)
 a/k/a "MISSY" OCHRYMOWICH,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO.: 2018-CP-10-2890

NOTICE OF MOTION AND MOTION TO AMEND COMPLAINT

2018 NOV 30 PM 3:50
 CLERK OF COURT
 BY _____

TO: THE ABOVE-NAMED DEFENDANTS:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, Deidre Giglio, by and through her undersigned attorney, respectfully moves this Court for an Order setting a hearing on Plaintiff’s Motion to Amend her Complaint at such time and place as is convenient for the Court, and as soon as is practicably possible. At such time and place is set by the Court, Plaintiff will move this Court for an Order pursuant to Rule 15 of the South Carolina Rules of Civil Procedure (“SCRCP”) as well as Rules 19 and 20, SCRCP, giving Plaintiff leave to file her Amended Complaint, attached hereto as “Exhibit A.” Said proposed Amended Complaint adds claims for negligence and negligent against a new proposed Defendant Lisa Wolff Herbert, in her Official Capacity as Trustee for the Trust benefitting Melissa Ochrymowich. Herbert is the Trustee of a Trust created for the benefit of Defendant Ochrymowich, and was responsible for paying Defendant Ochrymowich’s automobile insurance premium.

Plaintiff is informed and does believe that Defendant Herbert was responsible for paying Defendant Melissa Ochrymowich’s automobile insurance, and let said policy lapse,

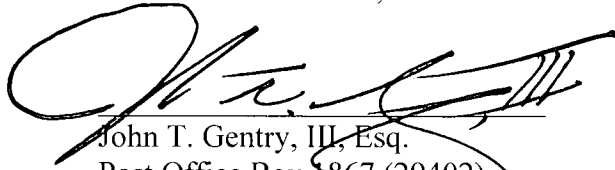
causing Defendant Ochrymowich to be uninsured at the time of the accident subject to this cause of action.

Rule 15(a) of the South Carolina Rules of Civil Procedure, states that “a party may amend his pleading . . . by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires and does not prejudice any other party.” Rule 15 SCRPC, which governs amendment of pleadings, strongly favors amendments and the court is encouraged to freely grant leave to amend. Parker vs. Spartanburg Sanitary Sewer Dist., 362 S.C. 276, 607 S.E.2d 711 (Ct. App. 2005). It is well-established that a motion to amend a pleading is addressed to the sound discretion of the trial judge. Duncan vs. CRS Sistine Eng’rs, 337 S.C. 537, 524 S.E.2d 115 (Ct. App. 1999); see Berry vs. McLeod, 328 S.C. 435, 492 S.E.2d 794 (Ct. App. 1997) (Courts have wide latitude in amending pleadings).

With regard to the language in Rule 15 that envisions prejudice to the adverse party, the prejudice the rule envisages is a “lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it.” City of North Myrtle Beach vs. Lewis-Davis, 360 S.C. 225, 232-33, 599 S.E.2d 462, 465 (Ct. App. 2004). Plaintiff asserts that no prejudice as envisioned by Rule 15 SCRPC will result if the Court should grant Plaintiff leave to amend the Complaint. The proposed additional Defendant Lisa Wolff Herbert has known from the outset of this litigation that she was allegedly responsible for paying Defendant Melissa Ochrymowich’s automobile insurance.

Accordingly, I respectfully ask that this motion be given a hearing and be granted to that Plaintiff can file his Amended Complaint as soon as possible.

Respectfully submitted,
CLEKIS LAW FIRM, P.A.



John T. Gentry, III, Esq.

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ATTORNEY FOR PLAINTIFF

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-10-2890

Deidre Giglio,)
)
Plaintiff,)
)
vs.)
)
Ronald Nunn, a/k/a “Ronald)
Ochrymowich” and Melissa, a/k/a)
“Missy” Ochrymowich, Lisa)
Woolfe-Herbert, in her Official)
Capacity as the Agent and the)
Trustee of the Trust Benefitting)
Melissa Ochrymowich,)
)
Defendants.)
_____)

**SUMMONS
JURY TRIAL DEMANDED**

TO: THE DEFENDANT ABOVE NAMED

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to said Complaint upon the subscriber at his office at 171 Church Street, Suite 160, Charleston, South Carolina, 29401 within thirty (30) days after service hereof, exclusive of the day of such service.

YOU ARE HEREBY GIVEN NOTICE FURTHER that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of such service, judgment by default will be entered against you for the relief demanded in the Complaint.

Respectfully Submitted,
CLEKIS LAW FIRM, P.A.

John T. Gentry, III, Esq.
S.C. Bar No. 101527
john@clekis.com
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F*843.577.0460

ATTORNEY FOR PLAINTIFF

Charleston, South Carolina
_____, 2018.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) CASE NO.: 2018-CP-10-2890

M. Deidre Giglio,)
)
 Plaintiff,)

vs.)

Ronald Nunn, a/k/a “Ronald)
 Ochrymowich” and Melissa, a/k/a)
 “Missy” Ochrymowich, and Lisa)
 Wolff Herbert, in her Official)
 Capacity as the Agent and the)
 Trustee of the Trust Benefitting)
 Melissa Ochrymowich,)
)
 Defendants.)

AMENDED COMPLAINT AND DEMAND
FOR JURY TRIAL

-Negligence/Negligence Per Se/
 Gross Negligence (Auto Accident)
 -Negligent Entrustment/Gross
 -Negligence

The Plaintiff, complaining of the Defendants herein, hereby demands a jury trial and alleges as follows:

PARTIES

1. That the Plaintiff M. Deidre Giglio (hereinafter “Plaintiff Giglio,” “Ms. Giglio,” or “Plaintiff”) is a citizen and resident of the County of Charleston, State of South Carolina and is domiciled therein.
2. Plaintiff is informed and does believe that Defendant Ronald Nunn a/k/a “Ronald Ochrymowich” (herein “Defendant Driver”) is a citizen and resident of the County of Charleston, State of South Carolina, and is domiciled therein.
3. Plaintiff is further informed and does believe that Defendant Melissa Ochrymowich (herein “Defendant Owner” and sometimes referred to herein as

“Missy Ochrymowich”) is a citizen and resident of the County of Charleston, State of South Carolina, and is domiciled herein.

4. Plaintiff is further informed and does believe that Defendant Lisa Wolff Herbert, in her Official Capacity as Trustee of the Trust Benefitting Melissa Ochrymowich, is a citizen, resident, and domiciliary of the State of South Carolina, County of Charleston.
5. Plaintiff further alleges and is informed and does believe that at all times relevant to this action, Defendant Herbert was responsible for paying the automobile insurance premium for the vehicle identified herein as 2012 Nissan SUV bearing South Carolina License Plate KTY333.
6. Plaintiff is further informed and does believe that the applicable Trust document making Defendant Herbert the Trustee for the Benefit of Defendant Melissa Ochrymowich, put a fiduciary duty on Defendant Herbert to keep the automobile insurance policy on the above-referenced vehicle in-effect at all times relevant to this action.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the parties to this action pursuant to Article V of the South Carolina Constitution, as well as S.C. Code Ann. §§ 36-2-802 and 36-2-803 (Law Co-op 1976).
8. Venue in this action is proper pursuant to S.C. Code Ann. § 15-7-30, given that both the events underlying this cause of action, as well as the Defendant’s domicile are in Charleston County.

FACTUAL BACKGROUND

9. On or about 11:05 am on November 30, 2015, Deidre Giglio was traveling South on Main Road and slowed for traffic at the intersection of Main Road and Patton Avenue on Johns Island, South Carolina in the County of Charleston.
10. At the afore-mentioned date and time, the Defendant Driver—who Plaintiff is informed and does believe was traveling at an excess rate of speed, texting while driving, driving without insurance, driving with a suspended license, driving while tending to his pet canine in the backseat and driving a motor vehicle belonging to Defendant Owner Melissa Ochrymowich—was traveling behind Plaintiff Giglio proceeding South on Main Road.
11. Further at the afore-mentioned date and time, the Defendant Driver was engaging in the aforesaid conduct simultaneously while operating Defendant Owner's motor vehicle despite only having the use of one leg.
12. Further at the afore-mentioned date and time and as a result of his acts and omissions described above, Defendant Driver was not paying attention to the flow of traffic in front of him and crashed violently into Ms. Giglio's vehicle with such force that it destroyed the Plaintiff's vehicle, thereby trapping the Plaintiff in her vehicle and causing her traumatic and permanent personal injuries as well as severe property damage.
13. Prior to this car crash described above, Defendant Driver's license had been suspended several times due to his violation of one or more traffic laws, and Defendant Driver's license was suspended at the time of this car crash as a result.
14. Plaintiff is further informed and does believe that at the afore-mentioned date and time of this car crash and prior to this car crash, Defendant Owner lived with

Defendant Driver and had actual notice of Defendant Driver's numerous traffic violations and license suspension. Nevertheless, Defendant Owner allowed Defendant Driver to operate her vehicle knowing that Defendant Driver was a danger to others on the road and did not have a valid driver's license.

15. Defendant Owner further allowed Defendant Driver to drive her vehicle with actual knowledge that her vehicle did not have insurance.

16. Defendant Owner further had this knowledge in concert with Defendant Herbert, as Defendant Herbert—who acted as the Trustee of a Trust created for the benefit of Defendant Owner—was responsible for paying Defendant Owner's automobile insurance premium at all times relevant to this action, had failed to pay the insurance premium on the vehicle.

17. Further and as a result of the car crash afore-described, Defendant Owner was subsequently arrested for failing to insure her vehicle and allowing Defendant Driver to operate said vehicle.

18. Because of all of the Defendants' unlawful and reckless conduct, Plaintiff Giglio not only incurred medical expenses, pain and suffering, loss of enjoyment of life, and lost wages, but now suffers and continues to suffer from a traumatic brain injury as a result of the November 30, 2015 car crash caused by the Defendants. Further as a result limited funds due to Defendants' statutory violations, Plaintiff has yet to be adequately compensated for her injuries.

FOR A FIRST CAUSE OF ACTION
(Negligence/Negligence Per Se/Gross Negligence—Defendant Driver)

19. Plaintiff Giglio reaffirms and reiterates all of the allegations contained in the preceding paragraphs as fully as if repeated herein.

20. Plaintiff Giglio was injured and damaged as a result of the negligence, carelessness, and recklessness/gross negligence of Defendant Driver, by failing to use even slight care due to the acts and omissions described in one or more of the following particulars:
- a. In failing to apply the brakes of the vehicle and/or maintain them in proper working condition;
 - b. In failing to steer or take other evasive action so as to avoid the collision;
 - c. In failing to keep a proper lookout;
 - d. In failing to yield as required by law;
 - e. In operating the vehicle at a high and excessive rate of speed under the circumstances;
 - f. In failing to observe the conditions of traffic;
 - g. By texting and operating his phone while driving;
 - h. By driving with a suspended license;
 - i. By driving distracted from caring for his canine while driving;
 - j. By driving without insurance;
 - k. By failing to use that extra degree of care in driving which is required of a driver operating a motor vehicle with only one leg;
 - l. In failing to take proper precautions to avoid the collision that resulted;
and;
 - m. In failing to exercise that degree of care that a reasonably prudent person would have exercised under the same or similar circumstances.
 - n. By and through additional particulars to be supplemented through discovery and the trial of this case.

All of which were the direct and proximate cause of the injuries and damages suffered and to be suffered by Plaintiff Giglio, said acts being in violation of the Code of Laws of the State of South Carolina.

FOR A SECOND CAUSE OF ACTION
(Negligence/Negligence Per Se/Gross Negligent Entrustment—Defendant Melissa Ochrymowich)

21. Plaintiff Giglio reaffirms and reiterates all of the allegations contained in the preceding paragraphs as fully as if repeated herein.
22. Defendant Driver, a/k/a “Ronald Nunn, a/k/a Ronald Ochrymowich” was legally forbidden from driving a motor vehicle at the time of the afore-described events underlying this cause of action that stemmed from myriad traffic violations.
23. Plaintiff is informed and does believe that the Defendant Owner Melissa Ochrymowich either knew, or had reason to know that Defendant Driver had a driving record with said myriad traffic violations, and was not licensed and thereby forbidden from driving a motor vehicle in the state of South Carolina.
24. Defendant Owner further knew or had reason to know that the vehicle that she entrusted to Defendant Driver was not insured.
25. Defendant Owner nevertheless entrusted her motor vehicle—a dangerous instrumentality when operated by Defendant Driver with previous traffic violations and with a suspended license—to Defendant Driver despite either knowing or having reason to know that Defendant Driver was not licensed.
26. Defendant Owner’s entrustment of her vehicle to Defendant Driver created an appreciable risk of harm to others including the Plaintiff, and Defendant Owner had a relational duty not to entrust her vehicle to an unlicensed driver.

27. The Plaintiff suffered harm through personal injuries and property damage due to the unlicensed Defendant Driver's negligence/gross negligence/negligence *per se*, and this harm was proximately caused by Defendant Owner entrusting her vehicle to the Defendant Driver.

FOR A THIRD CAUSE OF ACTION
(Negligence—Defendant Lisa Wolff Herbert)

28. Plaintiff Giglio reaffirms and reiterates all of the allegations contained in the preceding paragraphs as fully as if repeated herein.

29. An agreement existed as part of a Trust and/or other legal instrument whereby Defendant Herbert undertook to pay the automobile insurance premium for the vehicle involved in this accident on behalf of Defendant Melissa Ochrymowich.

30. Despite undertaking this duty and responsibility, Defendant Herbert allowed the automobile insurance on the vehicle to lapse, causing it to be canceled.

31. Defendant Herbert further knowingly allowed the other Defendants to use the vehicle involved in the accident despite her knowledge that the vehicle was uninsured.

32. As a result of the acts and omissions of this Defendant, the Plaintiff has yet to be made whole or adequately compensated for the serious injuries she sustained as a result of this accident.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Giglio prays for judgment against the Defendants for such sums as will fully, fairly, and justly compensate Plaintiff Giglio, on each of the above-referenced claims as follows:

1. Awarding compensatory damages for past and future damages, including but not limited to pain and suffering for all personal injuries, loss of enjoyment of life, and healthcare costs, lost wages, and permanent impairment, together with interests and costs;
2. For any other causes of action and/or claims as may be compensable under local law and/or statutes as may apply under the laws of South Carolina in the jurisdiction and venue in which this case will be held for trial;
3. Punitive and/or exemplary damages for the wanton, willful, reckless acts of the Defendants, and each of them, who demonstrated a complete disregard and reckless indifference for the safety and welfare of the general public and to Plaintiff Giglio in an amount sufficient to punish Defendants and deter future similar conduct;
4. Awarding Plaintiff Giglio reasonable attorney's fees;
5. Awarding Plaintiff Giglio the costs of these proceedings; and
6. Such other and further relief that this Court deems just and proper.

Respectfully Submitted,
CLEKIS LAW FIRM, P.A.

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At Charleston, South Carolina

ATTORNEY FOR PLAINTIFF

_____, 2018.