

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

CODY PHILLIPS,)	Case No.
)	
Plaintiff,)	COMPLAINT
)	(Negligence/Negligence Per Se)
v.)	
)	Damages in the amount of \$9,557; filing fee
JONATHAN MCGILL,)	per ORS §21.160(1)(a)
)	
Defendant.)	SUBJECT TO MANDATORY
_____)	ARBITRATION

COMPLAINT

Plaintiff, Cody Phillips (hereafter referred to as “Plaintiff”) through counsel, alleges as follows:

1.

Plaintiff was injured on or about February 6, 2018, in Portland, Oregon, due directly to the actions of Defendant Jonathan McGill (“Defendant”) in the use of his motor vehicle.

2.

Plaintiff is an adult resident of Washington County, Oregon.

3.

At all relevant times mentioned herein, Defendant, was the owner and operator of a Ford Ranger. On information and belief, Defendant is an adult resident of Washington County, Oregon.

1 4.

2 On or about February 6, 2018, Plaintiff was on U.S. 26 near mile post 73 in the
3 Multnomah County portion of Portland when he was rear-ended by Defendant.

4 5.

5 All of the above enumerated actions by Defendant demonstrate the event outlined in
6 paragraph 4 above occurred without any fault or negligence attributable to Plaintiff.

7 6.

8 As a direct result of these breaches of duty and law described in paragraphs 4 through 5,
9 and due directly to the behavior by Defendant, Plaintiff suffered emotional distress and mental
10 anguish. This includes anxiety, as well as inconvenience, all to their non-economic harm in an
11 amount to be determined by the jury to fairly and justly compensate them in accordance with
12 Oregon law, not to exceed \$3,000

13 7.

14 As a direct result of the above described incident, Plaintiff incurred property damages to
15 his virtually brand-new vehicle that had been driven less than 2,000 miles, all to his economic
16 detriment and resulted in economic damages in an amount to be determined by the jury to fairly
17 and justly compensate her in accordance with Oregon law, not to exceed \$6,557.00. He also
18 missed time from work.

19 8.

20 Plaintiff is entitled to recover attorney's fees incurred herein pursuant to ORS §20.080,
21 in addition to their damages and costs.

22 9.

23 Plaintiff reserves the right to amend this complaint pursuant to ORS §31.725.
24

1 **FIRST CLAIM FOR RELIEF**

2 (Negligence)

3 10.

4 Plaintiff re-alleges paragraphs 1-9 above as though fully set forth herein.

5 11.

6 Defendant was negligent in one or more of the following particular manners:

- 7 a. In operating the vehicle in an unsafe, unreasonable, careless or indiscriminate
8 manner without due regard for the safety of others;
- 9 b. In driving while distracted;
- 10 c. In failing to keep a proper lookout for other vehicles and traffic;
- 11 d. In failing to maintain safe and adequate control of his vehicle; and
- 12 e. In failing to comply with the Basic Speed Rule.

13 12.

14 These breaches of duty by Defendant described above in paragraph 11 led directly, and
15 foreseeably, to the injuries and damages suffered by Plaintiff as described above in paragraphs
16 6 & 7.

17 **SECOND CLAIM FOR RELIEF**

18 (Negligence Per Se)

19 13.

20 Plaintiff re-alleges paragraphs 1 through 12 above as though fully set forth herein.

21 14.

22 Defendant violated one or more of the following *Oregon Revised Statutes* (ORS) in the
23 following manners:
24

1 a. In operating the vehicle in a careless manner without due regard for the safety of
2 others in violation of ORS §811.135; and

3 b. In failing to comply with the Basic Speed Rule as required by ORS §811.100.

4 15.

5 Defendant was at all times material to this lawsuit required to comply with the foregoing
6 laws enumerated in paragraph 14.

7 16.

8 Plaintiff, as a person directly injured by the collision, was a member of the class intended
9 to be protected by such laws, and the harms suffered were of the type and kind such laws were
10 intended to protect against.

11 17.

12 As a direct and foreseeable result of Defendant's conduct, Plaintiff sustained bodily
13 injuries and other damages as described above in paragraphs 6 & 7.

14
15 **PRAYER FOR RELIEF**

16 18.

17 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- 18 a) Economic damages in the amount to be determined by the jury to fairly
19 compensate Plaintiff in accordance with Oregon law, and not to exceed \$6,557;
20 b) Non-economic damages in the amount to be determined by the jury to fairly
21 compensate Plaintiff in accordance with Oregon law, and not to exceed \$3,000;
22 c) Reasonable attorney's fees under ORS §20.080 for those amounts claimed by
23 Plaintiff;
24 d) Plaintiff's costs and disbursements incurred herein;

1 e) Other relief as the Court deems just and equitable.
2

3 Dated: July 15, 2018

Respectfully submitted,

4 /s/ Michael O. Stevens

5 Michael O. Stevens, OSB No. 095198
6 Attorney for Plaintiff

7 Trial Attorney:
8 Michael O. Stevens, OSB No. 095198
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24