

DISTRICT COURT, COUNTY OF GUNNISON, STATE OF COLORADO 200 E. Virginia Avenue Gunnison, CO 81230	DATE FILED: July 10, 2023 5:08 PM FILING ID: AF9FC604913F8 CASE NUMBER: 2023CV30039 ▲ COURT USE ONLY ▲
Plaintiff: Patrick Foote v. Defendants: William Hamilton	
<i>Attorneys for Plaintiff:</i> Joseph M. Elio, #14066 Skyler Archer, #52819 Law One 1434 Blake Street, Suite 200 Denver, CO 80202 p: (303) 831-8313 f: (720) 500-0241 jelio@elawone.net sarcher@elawone.net	Case Number: Division:
COMPLAINT FOR DAMAGES	

COMES NOW, Plaintiff, Patrick Foote, by and through his attorneys, Law One, and respectfully submits the following Complaint and alleges the following:

GENERAL ALLEGATIONS

1. The Plaintiff, Patrick Foote (hereinafter “Plaintiff” or “Mr. Foote”) is and was a resident of the city of Phoenix, Maricopa county, state of Arizona at the time of the incident.
2. Upon information and belief, Defendant William Hamilton (hereinafter, “Mr. Hamilton”) is and was at the time of the incident a resident of the city of Oak Harbor, Island county, State of Colorado.
3. Pursuant to C.R.C.P. 98(c)(5), venue is proper because the tort giving rise to this action occurred in Gunnison County, State of Colorado.
4. On July 17, 2020, Patrick Foote was the restrained driver of a 2020 Freightliner Cascadia, traveling eastbound on U.S. Highway 50 near milepost 127.
5. Defendant William Hamilton (“Mr. Hamilton”) was the driver of a 1990 Monarch RV, towing a recreational vehicle trailer with a combined weight of 30,000 pounds.
6. Mr. Hamilton was traveling behind Mr. Foote travelling eastbound on U.S. Highway 50 at approximately mile marker 127 as he attempted to pass Mr. Foote using the westbound lane, then

Mr. Hamilton's vehicle collided into Mr. Foote's vehicle as he merged in front of Mr. Hamilton's vehicle.

7. Colorado Highway Patrol Trooper J. Richert arrived at the scene and determined that Mr. Hamilton was at fault for the collision.
8. Mr. Hamilton was cited for violation of § 42-4-1402(2)(a); careless driving.
9. Mr. Foote sustained various injuries in the collision, including but not limited to injuries to his left knee, neck and back.
10. A sudden unanticipated emergency was not a factor in causing or contributing to the cause of this collision.
11. Weather conditions were not a factor in causing or contributing to the collision in question.
12. A mechanical condition of the motor vehicle Mr. Hamilton was driving was not a factor in causing or contributing to the collision.
13. The comparative negligence of Mr. Foote was not a factor in causing or contributing to the cause of the accident in question.
14. The negligence of a third-party over whom Mr. Hamilton had no control was not a factor in causing or contributing to the cause of the collision in question.
15. Mr. Foote has not failed to mitigate any of the damages which she suffered in the accident in question.
16. Defendant is not entitled to any of the protections afforded by C.R.S. § 13-21-111.6 (Collateral Source) in connection with Plaintiff's Complaint.
17. Defendant is not entitled to any of the protections afforded by C.R.S. § 13-21-111.7 (Assumption of Risk) in connection with Plaintiff's Complaint.
18. Defendant is not entitled to any of the protections afforded by C.R.S. § 13-21-111.5 (Responsible Non-Parties) in connection with Plaintiff's Complaint.

**PLAINTIFF'S FIRST CLAIM FOR RELIEF
(Negligence as to Defendant Hamilton)**

19. Plaintiff incorporates all previous allegations as if more fully set forth herein.
20. It was Mr. Hamilton's duty to use, at all times, reasonable care and prudence in the operation of the motor vehicle that he was operating.
21. It was Mr. Hamilton's duty to use reasonable care and prudence to operate his vehicle so as to avoid colliding with the truck in which Mr. Foote was driving.

22. The aforesaid collision caused Mr. Foote's injuries, damages and losses.
23. Mr. Hamilton's conduct in the operation of his vehicle was negligent and careless.
24. As a direct and proximate result and consequence of the negligence and carelessness of Mr. Hamilton, Mr. Foote has suffered personal injuries, causing physical, mental and emotional pain and suffering, and emotional distress.
25. Ms. Foote's injuries are permanent and resulted in permanent impairment.
26. As a direct and proximate result and consequence of the negligence of Mr. Hamilton, Mr. Foote has sustained injuries, damages and losses, in an amount to be determined at trial.
27. As a direct and proximate result and consequence of the negligence of Mr. Hamilton, Mr. Foote has incurred medical expenses and will continue to incur medical expenses in the future in an amount to be determined at the time of trial.

WHEREFORE, Plaintiff prays for relief at the conclusion of this pleading.

SECOND CLAIM FOR RELIEF
(Negligence Per Se – Defendant Hamilton)

28. Plaintiff incorporates all previous allegations as if more fully set forth herein.
29. Mr. Hamilton's careless driving, as averred above, constitutes negligence per se pursuant to C.R.S. 42-4-1402 Careless Driving.
30. As a direct and proximate cause of Mr. Hamilton's negligence per se, Mr. Foote has suffered injuries, damages and losses as aforesaid.

WHEREFORE, Plaintiff prays for relief at the conclusion of this pleading.

WHEREFORE, Plaintiff, Patrick Foote prays that the Court enter judgment in favor of Plaintiff and against Defendant in an amount which will fully and adequately compensate him for his injuries, damages and losses sustained as a result of the Defendant's negligence, including, but not limited to, physical and mental pain and suffering, loss of enjoyment of life, medical expenses, future earning impairment, and medical and rehabilitative expenses, and permanent impairment. Plaintiff requests the Court enter judgment in her favor and against Defendant for costs, expert witness fees, prejudgment interest from the date of the aforesaid acts of negligence at the highest rate allowed by law, attorney's fees, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted this 10th day of July, 2023.

LAW ONE

Electronically Filed – Duly signed original signature of Joseph M. Elio available at the offices of Law One.

/s/ Joseph M. Elio

Joseph M. Elio, #14066

Attorney for Plaintiff

Law One

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