

CAUSE NO. _____

DOUGLAS AGUILAR,
Plaintiff,

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IN THE DISTRICT COURT

v.

____ JUDICIAL DISTRICT

SAM LEMM,
Defendant.

HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DOUGLAS AGUILAR, (hereinafter referred to as "plaintiff")
complaining of SAM LEMM, (hereinafter referred to as "defendant") and for cause of
action would show the following:

I.

DISCOVERY LEVEL

1. Pursuant to Rules 190.1 and 190.3 of the Texas Rules of Civil Procedure,
discovery is intended in this lawsuit to be conducted under Level 2.

II.

RULE 47 STATEMENT

2. Plaintiff seeks monetary relief over \$250,000 but not more than
\$1,000,000.

III.

PARTIES

3. Plaintiff DOUGLAS AGUILAR was a resident of Harris County and the State
of Texas at the time of the collision made the basis of this suit.

4. Defendant SAM LEMM is an individual residing in Travis County, Texas. The defendant may be served with process at 3154 East Hwy 71 Del Valle, TX 78617 or wherever he may be found.
5. Plaintiff respectfully requests that citation be issued against the Defendant.

IV.

VENUE & JURISDICTION

6. Venue is proper in Harris County, Texas under § 15.002(a)(1) of the Tex. Civ. Prac. & Rem. Code (“the Code”) because all or a substantial part of the events and omissions giving rise to the claim occurred in Harris County, Texas.
7. The court has jurisdiction over Defendant pursuant to section 17.042 of the Texas Civil Practice and Remedies Code because defendant committed a tort in whole or in part in the State of Texas. The Court has jurisdiction over the controversy because the damages sued for are within the jurisdictional limits of this court.

V.

FACTUAL BACKGROUND

8. On or about March 1, 2023, Plaintiff, Douglas Aguilar was traveling North on Holzworth Rd, Houston, Harris County, Texas, in his gray 2003 Chevrolet Silverado. Defendant, Sam Lemm, was traveling parallel to Plaintiff, Douglas Aguilar in his black 2013 Ford F150. Defendant, Sam Lemm attempted to make a U-Turn when it was unsafe and struck the right side of Plaintiff, Douglas Aguilar’s vehicle causing major damage.

9. Officer D. Newsome, (ID C41449), arrived at the scene and conducted a thorough investigation. Based on the officer's training and experience, the officer determined that Defendant, Sam Lemm, was at fault for the crash. Defendant, Sam Lemm was cited for changing lanes when it was unsafe. Due to the Defendant's negligence, Plaintiff, Douglas Aguilar was severely injured.
10. As a result of the March 1, 2023, crash caused by Defendant Sam Lemm, Plaintiff Douglas Aguilar sustained injuries to his upper back, mid back, low back, right knee, and other areas, requiring medical treatment.
11. Plaintiff Douglas Aguilar will require ongoing medical treatment, including injections, pain medications, and physical therapy, to address his injuries and ongoing symptoms.
12. Based on the information presently available, Plaintiff Douglas Aguilar specifies the minimum amount of damages claimed as his actual damages caused by the collision at this time exceed the jurisdictional limits of this court. In this regard, Plaintiff Douglas Aguilar is entitled to recover his damages. All conditions precedent to Plaintiff Douglas Aguilar's right to recover have occurred or been performed.

VI.

CAUSE OF ACTION

COMMON LAW NEGLIGENCE OF SAM LEMM

13. Defendant had a duty to exercise the degree of care that a person of ordinary prudence would use to avoid harm to others under the same or similar

circumstances to those described therein.

14. Plaintiff Douglas Aguilar's injuries were proximately caused by Defendant Sam Lemm's negligent, careless, and reckless disregard of said duty.
15. Defendant Sam Lemm acted negligently, which negligence was a proximate cause of this collision in the following particulars:
 - a. Failing to keep a proper look out;
 - b. Failing to brake or timely brake to avoid crashing into Plaintiff Douglas Aguilar's vehicle;
 - c. Failing to control his speed / operate a motor vehicle at a speed that is reasonable and prudent to avoid crashing into Plaintiff Douglas Aguilar and Plaintiff Douglas Aguilar's vehicle (Tex. Transp. Code §545.351(1));
 - d. Failing not to move from the lane until the driver has ascertained that the movement can be made safely (Tex. Transp. Code §545.060(a));
 - e. Failing to maintain a safe distance between two vehicles (Tex. Transp. Code §545.062(a));
 - f. Failing to operate the vehicle in a reasonable and prudent manner;
 - g. Failing to operate the vehicle in obedience to traffic laws and regulations; and
 - h. Otherwise failing to exercise due care.

16. Each of these actions and omissions, singularly or in combination with others, constituted negligence, which proximately caused the occurrence made the basis of this suit and Plaintiff Douglas Aguilar's injuries and damages.

VII.

DAMAGES

17. As a direct and proximate result of the occurrence made the basis of this suit, Plaintiff Douglas Aguilar was caused to suffer serious bodily injuries, and seeks to recover the following damages:

- i. Reasonable and necessary medical care and expenses incurred by Douglas Aguilar in the past;
- ii. Reasonable and necessary medical care and expenses which, in all reasonable probability will be incurred by Douglas Aguilar in the future;
- iii. Physical pain and suffering by Douglas Aguilar in the past;
- iv. Physical pain and suffering which, in all reasonable probability, will be suffered by Douglas Aguilar in the future;
- v. Physical impairment of Douglas Aguilar in the past;
- vi. Physical impairment which, in all reasonable probability, will be suffered by Douglas Aguilar in the future;
- vii. Mental anguish of Douglas Aguilar in the past;
- viii. Mental anguish which, in all reasonable probability, will be suffered by Douglas Aguilar in the future;

- ix. Loss of earnings sustained by Douglas Aguilar in the past;
 - x. Loss of earnings and capacity, which will, in all reasonable probability be incurred in the future; and
 - xi. Monetary relief of over \$250,000 including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees. The specific amount plead is within the jurisdictional limits of the court.
18. Plaintiff Douglas Aguilar has incurred reasonable and necessary medical expenses billed to date, as a result of reasonable and necessary medical care received from ADM Chiropractic LLC, Origin MRI & Diagnostics, Origin Spine Institute, and 1st Choice Accident & Injury as a result of the crash that occurred on March 1, 2023.
19. Plaintiff Douglas Aguilar's reasonable and necessary medical treatment caused Plaintiff Douglas Aguilar to incur reasonable, necessary and customary medical expenses, which are all outstanding and incurred.
20. To date Douglas Aguilar's reasonable, necessary and customary bills incurred are \$42,055.00.

VIII.

PRESERVATION OF EVIDENCE

21. Plaintiff hereby requests and demands that Defendant preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, or the damages resulting therefrom, including

statements, photographs, videotapes, audiotapes, recordings, business or medical records, bills, estimates, invoices, checks, measurements, equipment, vehicles, correspondence, memoranda, files, facsimiles, email, voice mail, text messages, any and all contents of the tractor involved; cellular telephone records; call slips and telephone messages; calendar entries; diary entries; Qualcomm or any GPS, text messaging, or email service; all computerized tracking information; accident registers; tickets or citations of the driver; repair estimates and bills; insurance policies; witness statements; and any electronic image, data, or information related to the referenced collision. Failure to maintain such items will constitute a "spoliation" of the evidence.

IX

JURY DEMAND

22. Plaintiff hereby demands a jury trial on this matter and tenders the appropriate jury fee.

X.

PRAYER

23. Wherefore, premises considered, Plaintiff Douglas Aguilar prays that Defendant Sam Lemm be cited to appear and file an answer herein, and that upon trial Plaintiff Douglas Aguilar have and recover a judgment against, Defendant Sam Lemm for his actual damages, pre-judgment interest, post-

judgment interest, costs of Court, and such other and further relief, at law and in equity, to which Plaintiff Douglas Aguilar may be justly entitled.

Respectfully submitted,

THE WILLOUGHBY LAW FIRM, LLC

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Unofficial Copy Office of Marilyn B. ... Clerk

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Joshua Willoughby
Bar No. 24058762
attorneyjrw@gmail.com
Envelope ID: 94744356
Filing Code Description: Petition
Filing Description: Plaintiff's Original Petition
Status as of 11/26/2024 4:23 PM CST

Associated Case Party: DOUGLAS AGUILAR

Name	BarNumber	Email	TimestampSubmitted	Status
Joshua Willoughby		attorneyjrw@gmail.com	11/26/2024 4:08:33 PM	SENT
Daisy Muñoz		efile.jrw@gmail.com	11/26/2024 4:08:33 PM	SENT

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