

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

<b>LAWANDA LEE LEMASTER</b>  <b>Plaintiff,</b> <b>vs.</b>  <b>STATE FARM MUTUAL AUTOMOBILE</b> <b>COMPANY and BLAS TURRADO OLIVA</b>  <b>Defendants.</b>	<b>CIVIL NO. LACL151271</b>    <b>PLAINTIFF'S TRIAL BRIEF</b>
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**COMES NOW** the Plaintiff, LaWanda LeMaster, by and through her undersigned counsel, and hereby provides to the court the following Trial Brief:

**STATEMENT OF THE CASE**

Plaintiff, LaWanda LeMaster claims injury as the result of Defendant Blas Turrado Oliva's negligent operation of a motor vehicle on February 16, 2020. Plaintiff also alleges that she sustained injuries as a result of Defendants' negligence. Plaintiff LaWanda LeMaster claims a loss of past and future medical expenses, past and future loss of function of full mind and body, and past and future physical and mental pain and suffering. Defendants deny liability, causation and damages.

**STATEMENT OF THE FACTS**

LaWanda LeMaster is a 62-year-old woman injured during a motor vehicle collision on February 16, 2020. At the time of the collision, LaWanda was a passenger in the vehicle driven by her husband, Darrell LeMaster. They traveled northbound on Grimes Boulevard in Polk County, stopping at the intersection of Grimes Boulevard and 37<sup>th</sup> Street.

Defendant Blas Turrado Oliva operated his vehicle directly behind the LeMaster's. His vehicle collided with the rear end the LeMaster vehicle. Defendant Blas Turrado Oliva is afterwards ticketed for failing to obey a stop sign and yield the right of way. This negligent

operation of the vehicle caused the collision. LaWanda LeMaster and Darrell LeMaster will testify as to how this collision occurred. Deputy John May will also testify as to his investigation following the collision and his conclusions based upon his investigation.

Both parties refused medical treatment immediately following the collision. However, LaWanda continued to experience neck pain and sought treatment a few days following the collision. Although LaWanda sought treatment with her primary care physician, chiropractor, physical therapist and pain management specialist, LaWanda continues to experience significant neck pain interfering with her daycare and personal life.

LaWanda, her husband Darrell, her daughter Tiffany LeMaster, and friend Debbie Parker will testify how the collision and LaWanda's subsequent injuries significantly affected her ability to work, complete daily living tasks, and attend social events with her husband and friends.

### **ARGUMENT**

Plaintiff alleges that Defendant Blas Turrado Oliva negligently operated his vehicle, causing the motor vehicle collision on February 16, 2020. Plaintiff alleges that Defendant was negligent in failing to come to a stop at an intersection, in violation of Iowa Code §321.322. Furthermore, Plaintiff has alleged in her petition that the Defendant Blas Turrado Oliva failed to keep his vehicle under control and to maintain a proper lookout. This means more than looking and seeing under Iowa law. *Matuska v. Bryant*, 260 Iowa 726, 150 N.W.2d 716 (Iowa 1967).

Additionally, the Plaintiff alleges negligence on the part of Defendant Blas Turrado Oliva in failing to have his vehicle under control, in violation with Iowa Code §321.288, failing to maintain a proper lookout, and following too closely in violation with Iowa Code §321.307.

Dr. Jacqueline Stoken has issued a report concluding that Plaintiff's injuries arose from the collision. Dr. Stoken has further opined that these injuries have resulted in an 8% impairment

to LaWanda's whole person due to the cervical injury Plaintiff suffered as a direct result of this motor vehicle collision. Dr. Stoken further found that LaWanda is now susceptible to further health problems in the future and will continue to experience chronic cervical pain, muscle spasms, and weakness of the cervical musculature. Furthermore, Dr. Stoken has determined that LaWanda's cervical region is now susceptible to further injury.

Dr. Stoken has the requisite scientific knowledge to serve as an expert witness under Iowa Rule of Evidence 5.702, and her testimony will assist the trier of fact in understanding LaWanda's physical condition. Iowa R. Evid. 5.702. Dr. Stoken will further testify to the reasonable cost of LaWanda's treatment. *Schnebly v. Baker*, 217 N.W.2d 708 (Iowa 1974) and *Pexa v. Auto Owners Ins. Co.*, 686 N.W.2d 150 (Iowa 2004).

Dr. Meylor and Dr. Moyse, LaWanda's treating providers, have also issued reports and will provide testimony as to their LaWanda's diagnosis, treatment, and prognosis. Both have determined that LaWanda was injured as a result of this collision. LaWanda will testify herself concerning pain and loss of function.

#### **ANTICIPATED TRIAL PROCEDURE**

Plaintiff's counsel anticipates calling LaWanda LeMaster, Darrell LeMaster, Tiffany LeMaster, Debbie Parker, Deputy John May, Dr. Stoken, Dr. Moyse, and Dr. Meylor, and Defendant Blas Turrado Oliva. Plaintiff anticipates that Plaintiff's case-in-chief will last approximately two days from the time the evidence actually commences.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Filer certifies that on September 13, 2023, the pleading herein was electronically served on the following attorney(s) of record via EDMS.

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