

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

MAHALETCHUMI NAGARASA

Plaintiff

- and -

TIFFANY ASHLEE SINGH, JOACHIM VONDEHN, MUSKOKA HOME SERVICE,
REVEKKA STASI, ANDREAS TSANGARIS, UTHAYANVANAN MAHALINGAM and
MALARVILI NADARAJAH

Defendants



STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

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If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THAT THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date

Jan. 10, 2020

Issued by


Local Registrar

Address of
court office:

Superior Court of Justice
393 University Avenue, 10th Floor
Toronto, Ontario M5G 1E6

TO: MALARVILI NADARAJAH
10 Curtis Crescent
Scarborough ON, M1B 2B8

AND TO: UTHAYAVANAN MAHALINGAM
84 Telford Street
Ajax ON, L1T 4Z5

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AND TO: TIFFANY ASHLEE SINGH
1070 Hewitt Street
Gravenhurst ON, P1P 1T8

AND TO: JOACHIM VONDEHN
1070 Hewitt Street
Gravenhurst ON, P1P 1T8

AND TO: MUSKOKA HOME SERVICE
1070 Hewitt Street
Gravenhurst ON, P1P 1T8

AND TO: REVEKKA STASI
39 Starspray Blvd
Scarborough ON, M1C 4P6

AND TO: ANDREAS TSANGARIS
39 Starspray Blvd
Scarborough ON, M1C 4P6

CLAIM

1. THE PLAINTIFF CLAIMS:

- (a) General damages in the sum of \$1,000,000.00;
- (b) Special damages in the sum of \$1,000,000.00;
- (c) Pre-judgment and post-judgment interest on damages;
- (d) The costs of this action; and
- (e) Such further and other relief as this Honorable Court deems just.

THE PARTIES

2. The Plaintiff, Mahaletchumi Nagarasa, resides in the City of Scarborough, in the Province of Ontario, and at all material times was the backseat passenger of the 2014 Mitsubishi Outlander motor vehicle bearing Ontario License Plate number BVMF 316 (herein the "Plaintiff motor vehicle").
3. The Defendant, Malarvili Nadarajah, resides in the City of Scarborough, in the Province of Ontario, and at all materials times was the front seat passenger and owner of the Plaintiff motor vehicle.
4. The Defendant, Uthayanvanan Mahalingam, resides in the City of Ajax, in the Province of Ontario, and at all materials times was the driver of the Plaintiff motor vehicle.
5. The Defendant, Tiffany Ashlee Singh, resides in the Town of Gravenhurst, in the Province of Ontario, and at all material times was the driver of the 2008 Nissan motor vehicle bearing the Ontario License Plate number CEKE281 (herein the "Defendant motor vehicle 1")
6. The Defendant, Joachim Vondehn, resides in the Town of Gravenhurst, in the Province of Ontario, and at all material times was the owner of the Defendant motor vehicle 1.
7. The Defendant, Muskoka Home Service, with its head office, in Gravenhurst, Ontario, is owned by Joachim Vondehn.
8. The Defendant, Revekka Stasi, resides in the City of Scarborough, in the Province of

Ontario, and at all material times was the driver and owner of the 2016 Ford motor vehicle bearing the Ontario License Plate number CABJ849 (herein the “Defendant motor vehicle 2”)

9. The Defendant, Andreas Tsangaris, resides in the City of Scarborough, in the Province of Ontario, and at all material times was the owner of the Defendant motor vehicle 2.

THE ACCIDENT

10. On or about April 20, 2018, the Plaintiff motor vehicle was traveling on Finch Avenue East, in the City of Toronto in the Province of Ontario, in the far right lane nearing the intersection with Markham Road, when suddenly and without warning, the Defendant motor vehicle 1 changed lanes and stuck the Plaintiff motor vehicle, then struck Defendant motor vehicle 2 who was travelling in the middle lane, then fled the scene (hereinafter referred to as the “Accident”).

DAMAGES

11. The Defendant, Tiffany Ashlee Singh was driving with a suspended license at the time of the subject accident.
12. The Plaintiff claims that the Accident was caused as a direct result of the negligence of the Defendants’, the particulars of which include, but are not limited to, the following:

A. AS AGAINST THE DEFENDANT TIFFANY ASHLEE SINGH:

- (a) She failed to yield the right of way to the Plaintiffs;
- (b) She fled the scene of the accident;
- (c) She failed to keep a safe distance from the Plaintiff motor vehicle;
- (d) She failed to check his blind spots;
- (e) She failed to keep a proper lookout;
- (f) She was travelling at an excessive rate of speed considering the circumstances and as such the Defendant could not control the Defendant motor vehicle 1 within the range of vision;

- (g) She failed to keep the Defendant motor vehicle 1 under proper control;
- (h) on the occasion in question she was an incompetent driver lacking in reasonable skill and self-command and ought not to have attempted to operate a motor vehicle;
- (i) She failed to have the brakes on the Defendant motor vehicle 1 in proper working order or, in the alternative, she failed to apply them properly or at all;
- (j) She failed to slow down or stop or turn sufficiently to the right or left to avoid the Accident;
- (k) She could have and should have seen the Plaintiff motor vehicle, and she could have and should have avoided the Accident;
- (l) She failed to take reasonable care to avoid the Accident which she saw or should have seen was likely to occur;
- (m) She failed to give any or adequate signal or warning to the Plaintiffs of the her approach or intended course;
- (n) She failed to exercise due care and skill in the management of the Defendant motor vehicle 1;
- (o) She failed to have the Defendant motor vehicle 1 in a fit and proper condition, suitable for its safe operation on a highway;
- (p) She operated the Defendant motor vehicle 1 while the Defendant's ability to do so was impaired by alcohol, drugs, fatigue, medication, stress, or a combination of thereof;
- (q) She operated the Defendant motor vehicle 1 while distracted by reading text inside her vehicle, manipulating the controls and buttons on an electronic device, or through carrying on a conversation with someone, while attempting to drive at the same time;
- (r) She failed to observe and follow the rules of the road under the *Highway Traffic Act*; and
- (s) such other allegation of negations that may be discovered subsequently and/or within the knowledge of this Defendant.

B. AS AGAINST THE DEFENDANT JOACHIM VONDEHN:

- (a) He permitted the Defendant motor vehicle 1 to be operated by the Defendant Tiffany Ashlee Singh when he knew or ought to have known that the Defendant Tiffany was an incompetent driver and lacking reasonable care, skill, ability and training;
- (b) He permitted the Defendant motor vehicle 1 to be operated by Defendant Tiffany when he knew or ought to have known her license was suspended;
- (c) He failed to have the brakes on the Defendant motor vehicle 1 in proper working order;
- (d) He provided instructions to the Defendant Tiffany that compelled her to feel rushed and/or uneasy, leading Tiffany to become unfocussed on the safe operation of the Defendant motor vehicle 1; and
- (e) He failed to have the Defendant motor vehicle 1 in a fit and proper condition, suitable for its safe operation on a highway.

C. AS AGAINST THE DEFENDANT, MUSKOKA HOME SERVICE:

- (a) They permitted the Defendant motor vehicle 1 to be operated by the Defendant Tiffany Ashlee Singh when they knew or ought to have known that the Defendant Tiffany was an incompetent driver and lacking reasonable care, skill, ability and training;
- (b) They permitted the Defendant motor vehicle 1 to be operated by Defendant Tiffany when they knew or ought to have known her license was suspended;
- (c) They failed to have the brakes on the Defendant motor vehicle 1 in proper working order;
- (d) They provided instructions to the Defendant Tiffany that compelled her to feel rushed and/or uneasy, leading Tiffany to become unfocussed on the safe operation of the Defendant motor vehicle 1; and
- (e) They failed to have the Defendant motor vehicle 1 in a fit and proper condition, suitable for its safe operation on a highway.

D. AS AGAINST THE DEFENDANT, REVEKKA STASI:

- (a) She failed to yield the right of way to the Plaintiffs;
- (b) She failed to keep a proper lookout;
- (c) She was travelling at an excessive rate of speed considering the circumstances and as such the Defendant could not control the Defendant motor vehicle 2 within the range of vision;
- (d) She failed to keep the Defendant motor vehicle 2 under proper control;
- (e) on the occasion in question she was an incompetent driver lacking in reasonable skill and self-command and ought not to have attempted to operate a motor vehicle;
- (f) She failed to have the brakes on the Defendant motor vehicle 2 in proper working order or, in the alternative, she failed to apply them properly or at all;
- (g) She failed to slow down or stop or turn sufficiently to the right or left to avoid the Accident;
- (h) She could have and should have seen the Plaintiff motor vehicle and Defendant motor vehicle ` , and she could have and should have avoided the Accident;
- (i) She failed to take reasonable care to avoid the Accident which she saw or should have seen was likely to occur;
- (j) She failed to give any or adequate signal or warning to the Plaintiffs of the her approach or intended course;
- (k) She failed to exercise due care and skill in the management of the Defendant motor vehicle 2;
- (l) She failed to have the Defendant motor vehicle 2 in a fit and proper condition, suitable for its safe operation on a highway;
- (m) She operated the Defendant motor vehicle 2 while the Defendant's ability to do so was impaired by alcohol, drugs, fatigue, medication, stress, or a combination of thereof;
- (n) She operated the Defendant motor vehicle 2 while distracted by reading text inside

her vehicle, manipulating the controls and buttons on an electronic device, or through carrying on a conversation with someone, while attempting to drive at the same time;

- (o) She failed to observe and follow the rules of the road under the *Highway Traffic Act*; and
- (p) such other allegation of negations that may be discovered subsequently and/or within the knowledge of this Defendant.

E. AS AGAINST THE DEFENDANT, ANDREAS TSANGARIS:

- (a) He permitted the Defendant motor vehicle 2 to be operated by the Defendant Revekka Stasi when he knew or ought to have known that the Defendant Revekka was an incompetent driver and lacking reasonable care, skill, ability and training;
- (b) He failed to have the brakes on the Defendant motor vehicle 2 in proper working order;
- (c) He provided instructions to the Defendant Revekka that compelled her to feel rushed and/or uneasy, leading Revekka to become unfocussed on the safe operation of the Defendant motor vehicle 2; and
- (d) He failed to have the Defendant motor vehicle 2 in a fit and proper condition, suitable for its safe operation on a highway.

F. AS AGAINST THE DEFENDANT, UTHAYAVANAN MAHALINGAM:

- (a) He failed to keep a proper lookout;
- (b) He was travelling at an excessive rate of speed considering the circumstances and as such the Defendant could not control the Plaintiff motor vehicle within the range of vision;
- (c) He failed to keep the Defendant motor vehicle 2 under proper control;
- (d) on the occasion in question he was an incompetent driver lacking in reasonable skill and self-command and ought not to have attempted to operate a motor vehicle;
- (e) He failed to have the brakes on the Plaintiff motor vehicle in proper working order or, in the alternative, he failed to apply them properly or at all;
- (f) He failed to slow down or stop or turn sufficiently to the right or left to avoid the

Accident;

- (g) He failed to take reasonable care to avoid the Accident which he saw or should have seen was likely to occur;
- (h) He failed to exercise due care and skill in the management of the Plaintiff motor vehicle ;
- (i) He failed to have the Plaintiff motor vehicle in a fit and proper condition, suitable for its safe operation on a highway;
- (j) He operated the Plaintiff motor vehicle while the Defendant's ability to do so was impaired by alcohol, drugs, fatigue, medication, stress, or a combination of thereof;
- (k) He operated the Plaintiff motor vehicle while distracted by reading text inside his vehicle, manipulating the controls and buttons on an electronic device, or through carrying on a conversation with someone, while attempting to drive at the same time;
- (l) She failed to observe and follow the rules of the road under the *Highway Traffic Act*; and
- (m) such other allegation of negations that may be discovered subsequently and/or within the knowledge of this Defendant.

G. AS AGAINST THE DEFENDANT, MALARIVLI NADARAJAH:

- (e) She permitted the Plaintiff motor vehicle to be operated by the Defendant Uthayavanan Mahalingam when she knew or ought to have known that the Defendant Uthayavanan Mahalingam was an incompetent driver and lacking reasonable care, skill, ability and training;
- (f) She failed to have the brakes on the Plaintiff motor vehicle in proper working order;
- (g) She provided instructions to the Defendant Uthayavanan Mahalingam that compelled her to feel rushed and/or uneasy, leading Uthayavanan Mahalingam to become unfocussed on the safe operation of the Plaintiff motor vehicle; and
- (h) She failed to have the Plaintiff motor vehicle in a fit and proper condition, suitable for its safe operation on a highway

13. As a result of the Accident, the Plaintiff sustained permanent and serious impairments of important, physical, mental and psychological functions.
14. As a result of the Accident, the Plaintiff sustained serious and permanent injuries, including but not limited to back pain, left shoulder pain, left upper arm pain, concussion, and neck pain.
15. The injuries to the Plaintiff is accompanied by headaches, dizziness, shock, anxiety, depression, nightmares, emotional trauma, chronic pain, insomnia, weakness, diminished energy, insomnia, irritability, memory loss, cognitive difficulties and stiffness which continues to the present and will continue in the future.
16. The Plaintiff has sustained and will continue to sustain pain and suffering, loss of enjoyment of life and loss of amenities. The Plaintiff is unable to participate in those recreational, social, household, athletic and employment activities to the extent to which they participated in such activities prior to the Accident, or would have participated in the future, but for the Accident.
17. The Plaintiff has undergone and will be required to undergo in the future extensive hospital, medical, surgical, therapy, drug and other treatment.
18. The Plaintiff has been put to medical, hospital, health care, and other out-of-pocket health expenses, the full details of which are not available at the time of issuance of the Statement of Claim, however, full details of these expenses will be available prior to the commencement of the trial in this action.
19. The Plaintiffs ability to carry out housekeeping and home maintenance activities has been significantly and materially impaired as a result of the injuries and impairments sustained in the Accident.
20. The Plaintiff has sustained a significant loss of income and loss of competitive advantage, loss of earning capacity, and loss of opportunity, as a result of the injuries and impairments sustained in the Accident.
21. The Plaintiff seek to recover from the Defendants' all of the past, present, and future

expenses incurred, or likely to be incurred, by the Plaintiffs' as a direct result of the injuries and impairments sustained in the Accident, none of which would have been incurred but for the Accident, including but not limited to expenses for medical attention, ambulance transportation, hospital attendances, drugs, medication, assistive devices, parking, service providers, etc, and legal expenses and moving costs incurred to address the Plaintiffs inability to honour their financial obligations post-Accident, whether it be mortgage commitments, lease obligations, family support responsibilities, or otherwise. The full particulars of the Plaintiffs Accident related out-of-pocket expenses are not available at the date of issuance of the Statement of Claim, however, the full details of these expenses will be available prior to the commencement of the trial in this action.

22. In the within action, the Plaintiff seeks the costs and disbursements incurred of pursuing the accident benefits insurer with respect to the claim for accident benefits.
23. The Plaintiff pleads and relies upon the collateral source rule (herein the "collateral source doctrine"), such that in the event the Plaintiff receives compensation for their injuries from a source other than the defendant, the payment so received shall not be deducted from the damages that the defendants must pay.
24. The Plaintiff pleads that in the event that the collateral source doctrine is overruled, by legislation or otherwise, making a payment received from collateral sources deductible, in whole or in part, from the damages that the Defendants' must pay, the Plaintiff pleads that she has incurred, and will continue to incur, legal fees and expenses to pursue and collect those collateral benefits accruing to the benefit of the Defendants', with such legal fees and expenses being fully recoverable from the Defendants'. The Plaintiff pleads that these legal fees and expenses would not have been incurred but for the injuries and impairments sustained by them as a direct result of the Defendants' negligence.

STATUTORY RELIANCE

25. The Plaintiff pleads and relies upon the provisions of the:
 - (a) *Highway Traffic Act*, R.S.O. 1990, c.H 8;
 - (b) *Insurance Act*, R.S.O. 1990, c. I.8;

- (c) *Negligence Act*, R.S.O. 1990, c. N.1;
- (d) *Courts of Justice Act*, R.S.O. 1990, c. C.43; and
- (e) *Rules of Civil Procedure*, R.S.O 1990, Reg. 194.

The Plaintiffs propose that this action be tried at Toronto.

Dated:

Jan. 10, 2020

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Lawyers for the Plaintiff

AHALETCHUMI NAGARASA v. TIFFANY ASHLEE SINGH et al.

Court File No.: CV-20-00634159-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT TORONTO

STATEMENT OF CLAIM

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