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

YASMINE LUNDEN,	)	Case No. 15CV21260
	)	
Plaintiff,	)	<b>FIRST AMENDED COMPLAINT</b>
	)	(Personal Injuries/Negligence/Negligence Per
v.	)	Se/Negligent Entrustment)
	)	
RENE P. HIM; GETULIO NISENFELD,	)	Damages in the amount of \$49,500.00
	)	
Defendants.	)	<b>SUBJECT TO MANDATORY</b>
_____	)	<b>ARBITRATION</b>

**COMPLAINT**

Plaintiff, Yasmine Lunden, through counsel, alleges as follows:

1.

Yasmine Lunden (“Plaintiff”) was seriously injured in Multnomah County, Oregon, on or about October 18, 2013, due to the negligent and illegal operation of a motor vehicle by Defendant Getulio Nisenfeld (“Nisenfeld”) and the negligent entrustment of the vehicle to Nisenfeld by Defendant Rene P. Him (“Him” or collectively here after referred to as “Defendants”).

2.

Defendant Nisenfeld is an adult resident of Washington County, Oregon.

3.

Defendant Him is an adult resident of Washington County, Oregon.

1 4.

2 Plaintiff is an adult resident of Clark County, Washington.

3 5.

4 In the evening of October 18, 2013, both Plaintiff and Nisenfeld were driving on U.S.  
5 Route 26 when Nisenfeld rear-ended the vehicle driven by Plaintiff near the Skyline Boulevard  
6 overpass in or near Portland, Oregon, in Multnomah County, Oregon. Nisenfeld failed to  
7 maintain a proper lookout and forcefully collided with the rear portion of Plaintiff's Dodge  
8 Journey. Due to the speed of Nisenfeld's vehicle, Plaintiff was seriously injured on or about  
9 October 18, 2013.

10 6.

11 At all relevant times, Nisenfeld was the driver of the vehicle which injured Plaintiff on  
12 or about October 18, 2013. At all relevant times, Him was the owner of the vehicle driven by  
13 Nisenfeld which injured Plaintiff on or about October 18, 2013.

14 7.

15 The subject collision, as described in paragraphs 5 and 6 above, was solely the result of  
16 Defendants' negligence and illegal actions, while Plaintiff was without fault or negligence in  
17 regards to the subject automobile collision.

18 8.

19 As a result of the above described automobile collision, Plaintiff has needlessly incurred  
20 and will incur future costs for doctors and health care providers, medications, medical imaging,  
21 examinations and evaluations, and medical and therapeutic treatments, all to her detriment, with  
22 economic damages of an amount to be determined by the jury to fairly compensate her in  
23 accordance with Oregon law, not to exceed \$20,000.00.

24 9.

25 As a result of the above described automobile collision, Plaintiff sustained serious, lasting

1 and persistent personal injuries; with significant neck, back and body pain, decreased mobility,  
2 mental suffering, depression, inconvenience, anxiety, isolation, head injury with memory loss,  
3 and interference with her normal and usual activities, all to her detriment, with non-economic  
4 damages of an amount to be determined by the jury to fairly compensate her in accordance with  
5 Oregon law, not to exceed \$20,000.00

6 10.

7 As a result of the above described automobile collision, Plaintiff has and will suffer the  
8 loss of earnings and future earnings, and impairment of earning capacity, all to her detriment,  
9 with economic damages of an amount to be determined by the jury to fairly compensate her in  
10 accordance with Oregon law, not to exceed \$9,500.00.

11  
12 **FIRST CLAIM FOR RELIEF**

13 (Negligence)

14 11.

15 Plaintiff re-alleges paragraphs 1-10 above as though fully set forth herein.

16 12.

17 Upon information and belief, Nisenfeld was negligent in one or more of the following  
18 particular manners:

19 In operating the vehicle in an unsafe, unreasonable, careless or indiscriminate manner  
20 without due regard for the safety of others;

21 In driving while distracted;

22 In failing to keep a proper lookout for other vehicles and traffic;

23 In failing to maintain safe and adequate control of his vehicle; and

24 In failing to comply with the Basic Speed Rule.

25 //

1 13.

2 Upon information and belief, Him was the owner of the vehicle driven by Nisenfeld on  
3 October 18, 2013, and is vicariously liable for the negligence of Nisenfeld.

4 14.

5 These breaches of duty by Defendants described in paragraph 13 led directly to the  
6 injuries suffered by Plaintiff as described above in paragraphs 8, 9, and 10.

7  
8 **SECOND CLAIM FOR RELIEF**

9 (Negligence Per Se)

10 15.

11 Plaintiff re-alleges paragraphs 1-14 above as though fully set forth herein.

12 16.

13 Upon information and belief, Nisenfeld violated one or more of the following *Oregon*  
14 *Revised Statutes* (ORS) in the following manners:

- 15 a) In operating the vehicle in a careless manner without due regard for the safety of  
16 others in violation of ORS §811.135; and  
17 b) In failing to comply with the Basic Speed Rule as required by ORS §811.100.

18 17.

19 Nisenfeld was at all times material to this lawsuit required to comply with the foregoing  
20 laws enumerated in paragraph 16.

21 18.

22 Nisenfeld rear-ended Plaintiff, which violated both the Basic Speed Rule (ORS  
23 §811.100) due to heavy traffic, and carelessly by failing to maintain a proper lookout (ORS  
24 §811.135).

25 //

1 19.

2 The violations of these laws listed in paragraph 16 were the direct cause of Plaintiff's  
3 injuries. Furthermore, these laws were enacted to prevent harm of the type and manner needlessly  
4 suffered by Plaintiff at the hands of Nisenfeld.

5 20.

6 Upon information and belief, Him was the owner of the vehicle driven by Nisenfeld on  
7 October 18, 2013, and is vicariously liable for the actions of Nisenfeld.

8  
9 **THIRD CLAIM FOR RELIEF**

10 (Negligent Entrustment Against Rene Him)

11 21.

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

13 22.

14 Upon information and belief, the wrongful conduct of Nisenfeld set forth in Causes of  
15 Action Nos. One and Two, was a direct result of the entrustment of Him's vehicle to Nisenfeld.  
16 Him knew, or reasonably should have known, that Nisenfeld should not have been driving.  
17 Nisenfeld appeared to be under the influence of some substance or too tired to be operating the  
18 vehicle.

19 23.

20 It was foreseeable to Him that her conduct in allowing Nisenfeld to drive her vehicle on  
21 October 18, 2013, would lead to the harm Plaintiff suffered as described in paragraph 13. That  
22 breach of her duty to Plaintiff led directly to the injuries suffered by Plaintiff as described above  
23 in paragraphs 8, 9, and 10.

24 //

25 //

1 **PRAYER FOR RELIEF**

2 24.

3 **WHEREFORE**, Plaintiff prays for judgment against Defendants as follows:

- 4 a) Economic damages in the amount to be determined by the jury to fairly compensate  
5 Plaintiff in accordance with Oregon law, and not to exceed \$20,000.00 for past and  
6 future medical expenses;
- 7 b) Non-economic damages in the amount to be determined by the jury to fairly  
8 compensate Plaintiff in accordance with Oregon law, and not to exceed \$20,000.00;
- 9 c) Economic damages in the amount to be determined by the jury to fairly compensate  
10 Plaintiff in accordance with Oregon law, and not to exceed \$9,500.00 for past and  
11 future lost wages, and impairment of earning capacity;
- 12 d) Plaintiff's costs and disbursements incurred herein;
- 13 e) Plaintiff's attorney fees as ordered by the court or as otherwise appropriate, and;
- 14 f) Other relief as the Court deems just and equitable.

15  
16  
17  
18 Dated: January 22, 2016

Respectfully submitted,

19 

20 Michael O. Stevens, OSB No. 095198

21 Michael@HillsboroFirm.com

Attorney for Plaintiff

22 Trial Attorney:

23 Michael O. Stevens, OSB No. 095198

**CERTIFICATE OF SERVICE**

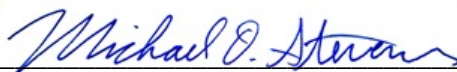
I hereby certify that I served the foregoing FIRST AMENDED COMPLAINT to the following persons or entities:

Multnomah County Circuit Court  
VIA E-File

Service was completed:

<input type="checkbox"/>	Via United States Postal Services by mailing them at the addresses listed above for each person or entity a true copy sealed in a postage-prepaid envelope and deposited in the United States mail at Hillsboro, Oregon.
<input checked="" type="checkbox"/>	Via electronic mail at the addresses listed above for each person or entity.
<input type="checkbox"/>	Via personal delivery at the addresses listed above for each person or entity.
<input type="checkbox"/>	Via facsimile at the numbers listed above for each person or entity.
<input type="checkbox"/>	Via overnight delivery at the addresses listed above for each person or entity utilizing the services of United Parcel Service.

DATED: January 22, 2016.

By:   
Michael O. Stevens, OSB No. 095198  
Telephone: 971-533-6178  
Facsimile: 971-228-2608  
Michael@HillsboroFirm.com