

STATE OF INDIANA )  
 ) SS:  
COUNTY OF ALLEN )

IN THE ALLEN SUPERIOR COURT  
CAUSE NO. 02D01-1803-CT-140

DANIEL KING, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GERARDO ORTEGA, )  
 )  
Defendant. )

**FINAL PRE-TRIAL ORDER**

The parties submit this FINAL PRE-TRIAL ORDER:

- A. Jurisdiction.** All parties consent to the Allen County Superior Court as having jurisdiction.
- B. Status of the Record.** Plaintiff filed a Complaint for Damages on March 13, 2018. Defendant filed an Answer, Affirmative Defenses, and Request for Jury Trial on May 24, 2018.
- C. Motions.** Both parties have filed Motions in Limine.
- D. Discovery.** Both parties have engaged in discovery, including written interrogatories, requests for production, requests for admissions, and depositions.
- E. Contested Issues.**
1. Who is at fault for the subject collision; and
  2. The nature and extent of the injuries and damages that Plaintiff sustained as a result of the collision.
- F. Stipulations.** The parties have not entered into any stipulations at this time.

**G. Contentions of the Plaintiff.**

On April 16, 2016, Plaintiff Daniel King was traveling east on Paulding Road with the right-of-way. Defendant Gerardo Ortega was in a parking lot on the south side of Paulding Road. Defendant failed to yield to Plaintiff and pulled out in front of him, thereby causing a collision between the front of Plaintiff's motorcycle and the side of Defendant's vehicle. The force of the impact threw Plaintiff off his motorcycle and over the hood of Defendant's vehicle.

As a result of the crash, Plaintiff Daniel King ruptured his right thumb ulnar collateral ligament and was forced to undergo surgery. Defendant Gerardo Ortega was entirely at fault for the collision and consequently is liable for the damages that Plaintiff has suffered.

**H. Contentions of the Defendant.**

Plaintiff caused the accident and his claimed injuries and damages are contested.

**I. Witnesses.**

Plaintiff may call any of the following witnesses at trial:

1. Daniel King  
c/o Sarah Reser  
132 E. Berry Street  
Fort Wayne, IN 46802
2. Gerardo Ortega  
c/o Patrick Murphy  
6640 Intech Blvd., Suite 210  
Indianapolis, IN 46278
3. Officer Joe Cutler  
Fort Wayne Police Department  
1 E. Main Street  
Fort Wayne, IN 46802  
(260) 427-1230
4. Stacey Gregory  
3203 Sandpoint Road, Apt. 103  
Fort Wayne, IN 46809  
(260) 415-2637

5. David J. Pope, MD  
OSMC  
2310 California Road  
Elkhart, IN 46514  
(574) 264-0791
  
6. Leo Dean Jansen, MD  
Jansen Orthopaedic Clinic  
2124 N. Biomet  
Warsaw, IN 46582  
(574) 267-2663
  
7. Brian T. Zafonte, MD  
OSMC  
2310 California Road  
Elkhart, IN 46514  
(574) 264-0791
  
8. Ward P. Hamlet, MD  
Ortho Northeast  
5050 N. Clinton Street  
Fort Wayne, IN 46825  
(260) 484-8551
  
9. Shannon Johnson, PTA  
Heather White, PT  
  
Peak Performance Physical Therapy  
2304 Dubois Drive  
Warsaw, IN 46580  
(574) 267-3500
  
10. Andrew J. Norton, MD  
Kosciusko Community Hospital  
2101 E. DuBois Drive  
Warsaw, IN 46580  
(574) 267-3200
  
11. Carol King  
78 EMS C29A Lane  
Warsaw, IN 46582  
(574) 527-0524
  
12. Nick King  
3363 N. Old Farm Road W.  
Warsaw, IN 46582

(574) 527-2426

13. Eric King  
78 EMS C29A Lane  
Warsaw, IN 46582  
(574) 527-2744
14. Shelly Turek  
USPS  
710 Park Ave.  
Winona Lake, IN 46590  
(574) 549-2791
15. Lucia Ortega  
5621 Fairfield Ave.  
Fort Wayne, IN 46807
16. Billing representatives for any of Plaintiff's medical providers;
17. Any records custodian needed to authenticate records not stipulated to prior to trial;
18. Any witnesses listed or called by Defendant; and
19. Rebuttal and impeachment witnesses.

Defendant may call any of the following witnesses at trial:

1. Daniel J. King, 78 EMS C29A LN, Warsaw, IN 46582.
2. Gerardo D. Ortega, 5621 Fairfield Avenue, Ft. Wayne, IN 46807.
3. Investigating Officer J. Cutler, Badge #1727F, Fort Wayne Police Department, 1 E. Main Street, Suite 108, Ft. Wayne, IN 46803.
4. Stacey Gregory, 3203 Sandpoint Road 103, Ft. Wayne, IN 46809.
5. Any witness listed by any other party in this case.

For purposes of impeachment, rebuttal, or laying the foundation for exhibits, Defendant reserves the right to call witnesses not listed here. ~~Defendant~~  
~~also reserves the right to supplement this list if additional witnesses are~~  
~~discovered.~~

**J. Exhibits.**

Plaintiff may submit any of the following as exhibits at trial:

1. Diagram of the collision scene and surrounding area;
2. Photographs (including Google Earth images) and/or videos of the collision scene and surrounding area;
3. Photographs and/or videos of the motorcycle and vehicle involved in the collision;
4. Indiana Officer's Standard Crash Report for the subject collision;
5. Photographs and/or diagrams of Plaintiff's injuries;
6. Billing and medical records for Jansen Orthopedic Clinic;
7. Billing and medical records for OSMC;
8. Billing and medical records for Ortho Northeast;
9. Billing and medical records for Kosciusko Community Hospital;
10. Billing and medical records for Elkhart General Hospital;
11. Billing and medical records for Peak Performance Physical Therapy;
12. Billing and medical records for Ascendant Orthopedic Alliance;
13. Prescription billing and records;
14. Itemized list of Plaintiff's medical bills and prescription expenses;
15. Lost income documentation for Plaintiff;
16. Plaintiff's W-2s;
17. Plaintiff's paycheck stubs;
18. The diagnostic imaging films of Plaintiff;
19. Diagrams of the ulnar collateral ligament;
20. Photos, diagrams, and/or videos of right thumb ulnar collateral ligament surgery;

21. Photos, diagrams, and/or videos of right thumb ulnar collateral ligament reconstruction;
22. Photos, diagrams, and/or videos of right ulnar collateral ligament repair and augmentation with internal brace;
23. Any documents, photographs, videos, spreadsheets, etc. created by any expert in this case;
24. Any documents, photographs, videos, spreadsheets, etc. relied upon or utilized by any expert in this case;
25. Any documents, photographs, videos, spreadsheets, etc. reviewed by any expert in this case;
26. Any documents, photographs, videos, spreadsheets, etc. produced by any expert in this case;
27. The curriculum vitae of any expert witness for Plaintiff;
28. The report of any expert witness for Plaintiff;
29. The curriculum vitae of David Pope, MD;
30. The affidavit of David Pope, MD;
31. All discovery responses of Plaintiff and Defendant;
32. Documents/things produced by the Plaintiff or Defendant or any non-party during discovery;
33. All pleadings in this case;
34. Any deposition taken in this case and all exhibits attached thereto;
35. Any exhibits listed or admitted by Defendant;
36. Demonstrative evidence;
37. Impeachment exhibits; and
38. Rebuttal exhibits.

Defendant may submit any of the following exhibits at trial:

1. Photographs of the vehicles involved in the Accident.

2. Photographs or diagrams of the scene of the Accident.
3. Any depositions.
4. Plaintiff's answers to Interrogatories and responses to Request for Production.
5. Plaintiff's health care and/or billing records, including, but not limited to, records from:
  - a. Ascendant Orthopedic Alliance, 1775 East Kercher Road, Goshen, IN 46526
  - b. Elkhart General Hospital, 600 East Blvd, Elkhart, IN 46514
  - c. Jansen Orthopedic Clinic, 2124 Biomet Drive, Warsaw, IN 46580
  - d. Kosciusko Community Hospital, 2101 E. Dubois Drive , Warsaw, IN 46580
  - e. Kosciusko Family Healthcare, PC, 2235 Dubois Drive, Warsaw, IN 46580
  - f. Ortho NorthEast, 5050 North Clinton Street, Ft. Wayne, IN 46825
  - g. OSMC, 1775 East Kercher Road, Goshen, IN 46526
  - h. Peak Performance Orthopedic and Physical Therapy, 2304 Dubois Drive, Warsaw, IN 46580
6. Plaintiff's employment records, including, but not limited to, records from:
  - a. USPS Human Resources, Attn: Human Resources Dept., 3939 Vincennes Road, Indianapolis, IN 46298
7. Plaintiff's insurance records, including, but not limited to, records from:
  - a. Anthem Blue Cross Blue Shield, ATTN: Michelle Kersey, 120 Monument Circle, Indianapolis, IN 46204
8. Plaintiff's tax records.
9. Any damage estimates or repair bills for the vehicles involved in the Accident.
10. Any exhibits listed by any party in this case.

**K. Settlement/Alternative Dispute Resolution.** The parties attended mediation.

No agreement was reached.

**L. Trial.** The trial will be to a jury. This case has been scheduled for a three (3) day jury trial commencing on February 11, 2020.

Respectfully submitted,

GLASER & EBBS

/s/ Sarah E. Reser

Sarah E. Reser, #27439-53

132 East Berry Street

Fort Wayne, IN 46802

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COUNSEL FOR PLAINTIFF

Respectfully submitted,

STATE FARM LITIGATION COUNSEL

/s/ Patrick J. Murphy

Patrick J. Murphy, #22094-49

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Indianapolis, IN 46278

P: (317) 684-6161

F: (855) 697-7056

COUNSEL FOR DEFENDANT

APPROVED:

Dated: 1/13/2020

  
\_\_\_\_\_  
JUDGE ALLEN SUPERIOR COURT