

CASE NUMBER: CGC17559587

**PERSONAL INJURY/PROPERTY DAMAGE -
VEHICLE RELATED, COMPLAINT FILED BY
PLAINTIFF BRIASCO-STEWART, SAMANTHA
AS â€¦**

Document prepared for:

CASE NAME

SAMANTHA BRIASCO-STEWART VS. SEAN WILLIAM MCGINNIS
ET AL

DOCUMENT FILED DATE

June 16th, 2017

CASE FILING DATE

June 16th, 2017

COUNTY

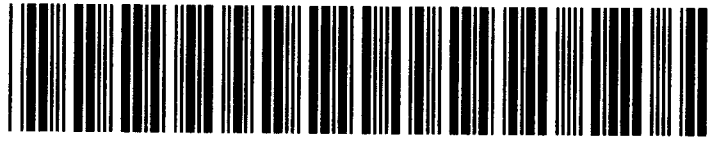
San francisco county, CA

JUDGE

Teri L. Jackson

CATEGORY

PERSONAL INJURY/PROPERTY DAMAGE - VEHICLE RELATED



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-17-559587

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COMPLAINT

SAMANTHA BRIASCO-STEWART VS. SEAN WILLIAM MCGINNIS ET AL

001C05908343

Instructions:

Please place this sheet on top of the document to be scanned.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address): CRAIG A. KRONER, ESQ. CSBN 124565 LAW OFFICE OF CRAIG A. KRONER 1141 RINGWOOD COURT # 10 SAN JOSE, CA. 95131-1757 TELEPHONE NO.: 408-433-9893 FAX NO.: 408-433-9301 ATTORNEY FOR (Name): PLAINTIFF(S)		FOR COURT USE ONLY <h1 style="margin: 0;">FILED</h1> San Francisco County Superior Court JUN 16 2017 CLERK OF THE COURT BY: Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 MCALLISTER STREET, RM 103 MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO 94102 BRANCH NAME:			
CASE NAME: BRIASCO-STEWART V MCGINNIS			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: CC-17-559587 JUDGE: DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input checked="" type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): TWO: MOTOR VEHICLE NEGLIGENCE & INTENTIONAL TORT DUI
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 6-16-17

CRAIG A. KRONER, ESQ.
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
SEAN WILLIAM MCGINNIS
& DOES 1-45

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
SAMANTHA BRIASCO-STEWART

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
SAN FRANCISCO COUNTY SUPERIOR COURT
400 MCALLISTER STREET, RM 103
SAN FRANCISCO, CA. 94102

CASE NUMBER: (Número del Caso): 066-17-559587

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
CRAIG A. KRONER, ESQ. CSBN124565 408-433-9893; FAX 408-433-9301
1141 RINGWOOD COURT # 10 locak@sbcglobal.net
SAN JOSE, CA. 95131-1757

DATE: JUN 16 2017 Clerk of the Court

Clerk, by Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Neyl Webb

[SEAL]



- NOTICE TO THE PERSON SERVED:** You are served
- ☐ as an individual defendant.
 - ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):
under:
☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):
☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)
- ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Number, and address):

FOR COURT USE ONLY

CRAIG A. KRONER, ESQ. CSBN124565
 LAW OFFICE OF CRAIG A. KRONER
 1141 RINGWOOD COURT # 10
 SAN JOSE, CA. 95131-1757
 TELEPHONE NO.: 408-433-9893 FAX NO. (Optional): 408-433-9301
 E-MAIL ADDRESS (Optional): locak@sbcglobal.net
 ATTORNEY FOR (Name): PLAINTIFF(S)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

STREET ADDRESS: 400 MCALLISTER STREET RM 103

MAILING ADDRESS:

CITY AND ZIP CODE: SAN FRANCISCO 94102

BRANCH NAME:

PLAINTIFF: SAMANTHA BRIASCO-STEWART

DEFENDANT: SEAN WILLIAM MCGINNIS

&

☒ DOES 1 TO 45**COMPLAINT-Personal Injury, Property Damage, Wrongful Death**☐ AMENDED (Number):

Type (check all that apply):

☒ MOTOR VEHICLE ☒ OTHER (specify): INTENTIONAL TORT☒ Property Damage ☐ Wrongful Death☒ Personal Injury ☒ Other Damages (specify):
PUNITIVE DAMAGES

Jurisdiction (check all that apply):

☐ ACTION IS A LIMITED CIVIL CASEAmount demanded ☐ does not exceed \$10,000☐ exceeds \$10,000, but does not exceed \$25,000☒ ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)☐ ACTION IS RECLASSIFIED by this amended complaint☐ from limited to unlimited☐ from unlimited to limited

CASE NUMBER:

CGC-17-559587

FILED

San Francisco County Superior Court

JUN 16 2017

CLERK OF THE COURT

BY:  Deputy Clerk

1. Plaintiff (name or names): SAMANTHA BRIASCO-STEWART

alleges causes of action against defendant (name or names): SEAN WILLIAM MCGINNIS, et al

2. This pleading, including attachments and exhibits, consists of the following number of pages: 6

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):(1) ☐ a corporation qualified to do business in California(2) ☐ an unincorporated entity (describe):(3) ☐ a public entity (describe):(4) ☐ a minor ☐ an adult(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed(b) ☐ other (specify):(5) ☐ other (specify):b. ☐ except plaintiff (name):(1) ☐ a corporation qualified to do business in California(2) ☐ an unincorporated entity (describe):(3) ☐ a public entity (describe):(4) ☐ a minor ☐ an adult(a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed(b) ☐ other (specify):(5) ☐ other (specify):☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

BRASCO-STEWART V MCGINNIS

CASE NUMBER:

4. ☐ Plaintiff (name):
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

- a. ☐ except defendant (name):

- (1) ☒ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

- c. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

- b. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

- d. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

- a. ☒ Doe defendants (specify Doe numbers): 1-45 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
 b. ☒ Doe defendants (specify Doe numbers): 1-45 are persons whose capacities are unknown to plaintiff.

7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a. ☒ at least one defendant now resides in its jurisdictional area.
 b. ☒ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
 c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.
 d. ☐ other (specify):

9. ☒ Plaintiff is required to comply with a claims statute, and

- a. ☒ has complied with applicable claims statutes, or
 b. ☐ is excused from complying because (specify):

SHORT TITLE:

BRASCO-STEWART V MCGINNIS

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☒ Motor Vehicle
- b. ☐ General Negligence
- c. ☒ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (*specify*):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☒ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☒ property damage
- f. ☒ loss of earning capacity
- g. ☒ other damage (*specify*):

PUNITIVE DAMAGES FOR DRIVING WHILE INTOXICATED

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☒ punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

ALL

Date: 6-16-17

CRAIG A. KRONER, ESQ.
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

BRIASCO-STEWART V MCGINNIS

CASE NUMBER:

FIRST
(number)**CAUSE OF ACTION- Motor Vehicle**

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint
(Use a separate cause of action form for each cause of action.)

Plaintiff (name): SAMANTHA BRIASCO-STEWART

MV-1. Plaintiff alleges the acts of defendants were negligent; the acts were the legal (proximate) cause of injuries and damages to plaintiff; the acts occurred
on (date): 7-1-15
at (place): 3RD STREET IN SAN FRANCISCO

MV-2. DEFENDANTS

a. ☒ The defendants who operated a motor vehicle are (names):
SEAN WILLIAM MCGINNIS &

☒ Does 1 _____ to 45 _____

b. ☒ The defendants who employed the persons who operated a motor vehicle in the course of their employment are (names): SEAN WILLIAM MCGINNIS &

☒ Does 1 _____ to 45 _____

c. ☒ The defendants who owned the motor vehicle which was operated with their permission are (names):
SEAN WILLIAM MCGINNIS &

☒ Does 1 _____ to 45 _____

d. ☒ The defendants who entrusted the motor vehicle are (names):
SEAN WILLIAM MCGINNIS &

☒ Does 1 _____ to 45 _____

e. ☒ The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):
SEAN WILLIAM MCGINNIS &

☒ Does 1 _____ to 45 _____

f. ☒ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are
☐ listed in Attachment MV-2f ☒ as follows:
SEAN WILLIAM MCGINNIS CAUSED THIS ACCIDENT WHILE
DRIVING INTOXICATED

☐ Does _____ to _____

Page 4

Page 1 of 1

SHORT TITLE:
BRIASCO-STEWART V MCGINNIS

CASE NUMBER

SECOND

CAUSE OF ACTION- Intentional Tort

Page 5

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): SAMANTHA BRIASCO-STEWART

alleges that defendant (name): SEAN WILLIAM MCGINNIS

☒ Does 1 to 45

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): 7-1-15

at (place): 3RD STREET IN SAN FRANCISCO

(description of reasons for liability):

DEFENDANT SEAN WILLIAM MCGINNIS INTENTIONALLY DROVE HIS MOTORCYCLE WHILE SEVERELY INTOXICATED AND STRUCK PLAINTIFF SAMATHA BRIASCO-STEWART WHILE SHE WAS A PEDESTRIAN. PLAINTIFF SUFFERED SEVERE INJURIES THEREFROM.

SHORT TITLE:

BRIASCO-STEWART V MCGINNIS

CASE NUMBER:

Exemplary Damages AttachmentPage 6ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

EX-1. As additional damages against defendant (name):

SEAN WILLIAM MCGINNIS & DOES 1-45

Plaintiff alleges defendant was guilty of

☒ malice☒ fraud☒ oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

DEFENDANT SEAN WILLIAM MCGINNIS INTENTIONALLY DROVE HIS MOTORCYCLE WHILE EXTREMELY INTOXICATED AND STRUCK THE PLAINTIFF WHILE SHE WAS A PEDESTRIAN. PLAINTIFF SUFFERED SEVERE INJURIES DUE TO DEFENDANT'S AFORESAID INTENTIONAL TORT.

EX-3. The amount of exemplary damages sought is

a. ☒ not shown, pursuant to Code of Civil Procedure section 425.10.b. ☐ \$