Court File No.:

*ONTARIO*

**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

JANE DOE, FLA #1, FLA #2, and FLA #3 by her litigation guardian JANE DOE

Plaintiffs

- and -

DEFENDANT #1

Defendant

**STATEMENT OF CLAIM**

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff(s). 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(s) do(es) not have a lawyer, serve it on the Plaintiff(s), 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.

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 Procedures. 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.

Date:

Issued by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Registrar

TO:

**CLAIM**

1. The plaintiff, JANE DOE, claims:

(a) General damages in the amount of $5,000,000.00;

(b) Special damages in the amount of $1,000,000.00;

(c) Pre-judgment interest and post-judgment interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

(d) Costs of this action on a substantial indemnity basis; and,

(e) Such further and other relief as this Honourable Court may deem just.

1. The plaintiffs, FLA #1, FLA #2 and FLA #3, by her litigation guardian JANE DOE, each claim pursuant to the provisions of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended:

(a) General damages in the amount of $500,000.00;

(b) Special damages in the amount of $100,000.00;

(c) Pre-judgment interest and post-judgment interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

(d) Costs of this action on a substantial indemnity basis; and,

(e) Such further and other relief as this Honourable Court may deem just.

**THE PARTIES**

1. The plaintiff, JANE DOE, was born on June 9, 19xx, and resides in the Town of Fonthill, in the Province of Ontario.
2. The plaintiff, FLA #1, is the son of JANE DOE and was born ~~~. FLA #1 maintains his permanent residence with his mother in the Town of Fonthill, in the Province of Ontario.
3. The plaintiff, FLA #2, is the son of JANE DOE and was born ~~~. FLA #2 maintains his permanent residence with his mother in the Town of Fonthill, in the Province of Ontario.
4. The plaintiff, FLA #3, is the daughter of JANE DOE and was born ~~~. FLA #3 resides with her mother in the Town of Fonthill, in the Province of Ontario. JANE DOE is the litigation guardian for FLA #3 in this matter.
5. The defendant, DEFENDANT #1, resides in the Town of Welland, in the Province of Ontario. He operated a 20xx Mercedes-Benz SLK 320 convertable bearing plate number BxxS 2xx (the “motor vehicle”).
6. The plaintiff, JANE DOE, was the owner of the motor vehicle. She was, at all material times, a passenger in the motor vehicle.

**THE COLLISION**

1. On November 28, 20xx, at approximately 6:00 pm, the defendant attended at the residence of the plaintiff, JANE DOE, in order to negotiate the purchase of the motor vehicle.
2. To allow the defendant to test drive the motor vehicle and continue negotiations, the defendant drove the plaintiff, JANE DOE, to a restaurant located in the City of St. Catharines, in the Province of Ontario.
3. After staying at the restaurant for approximately 90 minutes the defendant continued the test drive and began to drive the plaintiff, JANE DOE, to her residence.
4. While driving southbound on Merrittville Highway near Seburn Road in the Municipality of Thorold, in the Province of Ontario, the defendant, lost control of the motor vehicle, left the roadway, struck the guard rail and rolled the car multiple times.
5. The plaintiff, JANE DOE, was ejected from the motor vehicle and sustained massive injuries.

**THE NEGLIGENCE**

14. The collision was caused solely as a result of the negligence of the defendant, the particulars of which are as follows;

* 1. He drove the motor vehicle while under the influence of alcohol,
  2. He drove the motor vehicle in excess of the posted speed limit;
  3. He drove the motor vehicle excessively fast in relation to the road conditions;
  4. He failed to keep the motor vehicle under proper control;
  5. He failed to apply the brakes properly or at all;
  6. He operated the motor vehicle without due care and attention;
  7. Even after the danger of a collision arose, he could, by the exercise of reasonable care have avoided the collision, but he failed to do so;
  8. 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; and,
  9. At the time his faculties of observation, perception, judgment and control were impaired and due to his physical and mental condition, he was incompetent to operate a motor vehicle with normal and reasonable care and attention.

**THE DAMAGES**

15. As a result of the collision, the plaintiff, JANE DOE, sustained injuries causing permanent serious impairment of important physical, mental and psychological functions. These injuries include, but are not limited to, the following;

* 1. A large comminuted depressed right infraorbital wall fracture with evidence of entrapmentof the right inferior rectus muscle;
  2. A hemorrahge in the right maxillary sinus;
  3. A comminuted fracture of the scapula existing from the supermedial aspect to the body to the inferolateral aspect;
  4. Right rib fractures;
  5. Right eye neuropathy of optic nerve;
  6. Major right sided injury with weakness of the right arm especially in C5/6 distribution muscle groups, with wasting;
  7. Scalp lacerations overlying the right frontal bone and other areas;
  8. Injury to her neck, low back, rotator cuff, knees and teeth;
  9. Pelvic bruising;
  10. Abrasions to her left hand; and,
  11. A bruising and general wearing, tearing and straining of the muscles and connective tissues throughout her body.

16. As a result of her injuries the plaintiff, JANE DOE, has suffered a loss of income and will suffer a loss of earning capacity. She claims damages for her past and future loss of income and her future loss of earning capacity.

17. The plaintiff, JANE DOE, has and will continue to suffer pain and disability that will impair her enjoyment of life. She claims damages for her pain and suffering and loss of enjoyment of life.

18. The plaintiff, JANE DOE, is unable to perform household and home maintenance chores for herself to the extent that she was able to do so before the collisions. She has suffered a loss of housekeeping and home maintenance capacity. She will require assistance in the future to complete such chores. She claims damages for her loss of housekeeping and home maintenance capacity.

19. The plaintiff, JANE DOE, has been put to medical and other health care expenses as a result of the motor vehicle collisions which will continue for the rest of her life. She claims damages for the cost of past and future medical, rehabilitation and other health care expenses.

20. The plaintiff, JANE DOE, has been put to out-of-pocket expenses as a result of the motor vehicle collisions. She claims damages for her out-of-pocket expenses.

21. The plaintiff, JANE DOE, has suffered a diminution of her ability to form an interdependent relationship. She claims damages for the loss of the benefits such a relationship would have provided.

22. The plaintiffs, FLA #1, FLA #2, and FLA #3, have lost the care, guidance and companionship of the plaintiff, JANE DOE, they would have enjoyed, but for the personal injuries sustained by JANE DOE. They each claim damages pursuant to the provisions of the *Family Law Act* R.S.O. 1990, c. F.3, as amended.

23. As a further result of the defendant’s negligence, the plaintiffs, FLA #1, FLA #2, and FLA #3, have incurred pecuniary losses, including expenses incurred for the benefit of JANE DOE, travel expenses to visit JANE DOE in hospital and other out-of-pocket expenses, the particulars of which will be made available as they become known and which are claimed pursuant to s. 61 of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended. The plaintiffs, FLA #1, FLA #2, and FLA #3, claim an allowance for nursing, housekeeping and other services provided and to be provided to JANE DOE.

24. The plaintiffs plead and rely upon the provisions of:

* 1. The *Courts of Justice Act*, R.S.O. 1990 c.43;
  2. The *Negligence Act*, R.S.O. 1990 c.N.1;
  3. The *Insurance Act*, R.S.O. 1990 c.I.8; and,
  4. The *Family Law Act*, R.S.O. 1990 c.F.3.

**THE TRIAL**

25. The plaintiffs propose that this action be tried at the Town of Welland, in the Province of Ontario.

DATED this day of January, 20xx