## COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

PLYMOUTH COUNTY SUPERIOR COURT

C.A. NO.: 2183CV00524

THE COMMERCE INSURANCE
COMPANY A/S/O
MICHAEL C. SOUSA AND
WENDY SOUSA,
Plaintiffs

v.

TOWN OF MIDDLEBOROUGH
Defendant

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY

JUN 3 0 2021

Clerk of Court

## **PLAINTIFF'S COMPLAINT**

## A. PARTIES

- 1. The plaintiff, The Commerce Insurance Company is a Massachusetts corporation with a principal place of business located at 211 Main Street, Webster, Massachusetts, County of Worcester, Commonwealth of Massachusetts.
- 2. The defendant, The Town of Middleborough. ("Defendant") is a Massachusetts municipal corporation with a principal place of business at Town Hall, 10 Nickerson Avenue, Middleborough, Massachusetts.
- 3. Michael C. Sousa and Wendy Sousa ("Subrogors") are residents of 207 Thompson Street, Middleborough, Massachusetts.

## B. FACTS

- 4. On March 2, 2019, at 12:43 p.m. a plow truck (registration #M89901), operated by Joseph Mendonca and owned by the Town of Middleborough reversed into the subrogors' parked vehicle while plowing the parking lot of 219 N. Main Street.
- 5. The defendant, The Town of Middleborough was served with a proper presentment letter on May 1, 2019.
- 6. The plaintiff compensated the Subrogors' in the amount of \$10,115.16.

# C. <u>CAUSE OF ACTION - NEGLIGENCE</u>

- 7. This cause of action specifically incorporates by reference all of those paragraphs previously set forth and the allegations set forth therein.
- 8. This is an action by the plaintiff, The Commerce Insurance Company, against the defendant The Town of Middleborough for negligence resulting in property damages.
- 9. The Town of Middleborough's negligence directly and proximately caused the subject loss which caused property damage sustained by Commerce's insured, Michael C. Sousa and Wendy Sousa.

WHEREFORE, the plaintiff seeks judgment against the defendant in the amount of Ten Thousand One Hundred and Fifteen Dollars and Sixteen Cents (\$10,115.16), with interest and costs such other and further relief as this Court deems fair and just.

## D. DEMAND FOR RELIEF

10. The plaintiff, The Commerce Insurance Company demands judgment against the defendant, The Town of Middleborough in the amount of its damages, together with interest, costs and attorneys' fees as to the cause of action.

## E. JURY CLAIM

11. The plaintiff, The Commerce Insurance Company, claims a trial by jury.

Dated: June 16, 2021

Respectfully Submitted,
The Commerce Insurance Company a/s/o Michael
C. Sousa and Wendy Sousa,
By its attorney:

/s/ Scott J. Burke

Scott J. Burke, Esquire BBO No.: 641837 Mazzocca & Associates 2000 West Park Drive, Suite 100 Westborough, MA 01581 Telephone: 508-949-4868 Sburke@mapfreusa.com

# MAZZOCCA & ASSOCIATES ATTORNEYS AT LAW

2000 West Park Drive, Suite 100 Westborough, MA 01581

Telephone: (888) 274-4610 Fax: (508) 366-1074

Scott J. Burke, Esq. sburke@mapfreusa.com
Phone: 508-949-4868

June 28, 2021

# Via First Class Mail

Clerk, Civil Actions Plymouth County Superior Court 52 Obery Street Plymouth, MA 02630

RE: The Commerce Insurance Company As Subrogee of Michael C. Sousa and Wendy Sousa v. Town of Middleborough
New Filing

Dear Sir/Madam:

Enclosed, please find the following documents in the above-referenced matter:

- Plaintiff's Complaint and Request for Jury Trial;
- Check for filing fee and summons;
- Civil Action Sheet; and
- Pre-paid return envelope for summons.

Kindly file in your usual manner.

Thank you for your assistance in this matter.

Very truly yours,

/s/ Scott Burke

Scott J. Burke

SJB/ac

**Enclosures**