

BARROW COUNTY SUPERIOR COURT

STATE OF GEORGIA

SHELDON ALLEN

Plaintiff,

vs.

MATTHEW BENNETT,

Defendant.

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\* JURY TRIAL DEMANDED
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\* CASE NO.:
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SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

P. Charles Scholle
P. Charles Scholle, P.C.
6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in this Complaint.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk of Superior Court

By: \_\_\_\_\_  
Deputy Clerk

BARROW COUNTY SUPERIOR COURT

STATE OF GEORGIA

SHELDON ALLEN,

Plaintiff,

vs.

MATTHEW BENNETT AND JOHN  
DOES 1-5,

Defendants.

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JURY TRIAL DEMANDED

CASE NO.: \_\_\_\_\_

**COMPLAINT FOR DAMAGES**

COMES NOW SHELDON ALLEN, Plaintiff in the above-styled action, and brings this Complaint for Damages, and shows the Court the following:

1.

SHELDON ALLEN is, and at all times material to this action, was a resident of the State of Georgia.

2.

Defendant MATTHEW BENNETT is subject to the jurisdiction and venue of this Court.

3.

Defendant MATTHEW BENNETT is a resident of the state of Georgia and may be personally served at 400 Gladiola Bud Lane, Barrow County, Winder, Georgia 30011.

4.

The true names or capacities of Defendants named herein as John Does (1-5) [hereinafter collectively referred to as "John Does"] are unknown to the Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will amend this Complaint to show said John Does' true names and service addresses when the same have been ascertained. Plaintiff identifies

John Does 1-5 as either joint tortfeasors or possible additional liable parties. Plaintiff alleges on information and belief that John Does are in some manner responsible for the acts or omissions alleged herein.

5.

On June 12, 2010, Defendant MATTHEW BENNETT negligently operated his vehicle while under the influence of alcohol, causing it to collide with Plaintiff's vehicle, injuring Plaintiff.

6.

Defendant MATTHEW BENNETT owed duties of due and reasonable care to Plaintiff, as well as to other motorists on the road.

7.

Defendant MATTHEW BENNETT's negligence, which constitutes the direct and proximate cause of the injury to Plaintiff SHELDON ALLEN, also consisted of, but was not limited to, the following:

- (a) Driving in a reckless disregard for the safety of others in violation of O.C.G.A. § 40-6-390;
- (b) Driving under the influence in violation of O.C.G.A. § 40-6-391;
- (c) Driving with an Open Container of Alcohol;
- (d) Driving too fast for Conditions;
- (e) Following too Closely in violation of O.C.G.A. § 40-6-40;
- (f) Failing to exercise ordinary diligence in violation of O.C.G.A. § 51-1-2-64;
- (g) Failure to maintain reasonable control of vehicle;
- (h) Failure to operate vehicle in a safe fashion under the circumstances then existing;

- (i) Failure to take evasive or other reasonable action in order to control vehicle or maintain lane;
- (j) Failure to exercise ordinary care;
- (k) Failure to keep a proper lookout;
- (l) Committing other reckless and negligent acts and omissions, as shall be shown by the evidence and proven at trial.

8.

At all times material hereto, Plaintiff SHELDON ALLEN conducted himself in a safe and lawful manner, and did not in any way cause or contribute to the circumstances which caused him to sustain serious bodily injury.

9.

As a direct and proximate result of Defendants' negligence, Plaintiff SHELDON ALLEN has suffered the following:

- (a) physical and mental pain and suffering;
- (b) loss of enjoyment of life; and
- (c) loss of earnings and income.

10.

As a direct and proximate result of the injuries sustained in the subject collision caused by the negligence of Defendants, Plaintiff SHELDON ALLEN has incurred substantial medical expenses.

11.

By reason of the foregoing, Plaintiff SHELDON ALLEN is entitled to recover from Defendants compensatory and other damages in such amounts as may be shown by the evidence at trial and determined in the enlightened conscience of the jury.

12.

Pursuant to O.C.G.A. § 51-12-5.1, Defendants are liable for punitive damages based on their outrageous conduct and conscious indifference to the consequences of their actions.

13.

Defendant's actions of Driving Under the Influence constitute bad faith which authorizes an award of the expenses of litigation, including reasonable attorney fees, pursuant to O.C.G.A. § 13-6-11 and Knobeloch v. Mustacio, 640 F. Supp. 124 (1984).

WHEREFORE, SHELDON ALLEN prays and respectfully demands verdict and judgment as follows:

- (a) That Summons and Process issue and that the named Defendants be served with a copy of this Complaint and that Defendants be required to appear and answer;
- (b) That Plaintiff be awarded compensatory damages against Defendants, in such an amount as may be shown by the evidence and as may be determined in the enlightened conscience of the jury;
- (c) That the Plaintiff be awarded punitive damages for Defendants' conduct;
- (d) That Plaintiff be awarded special damages in an amount as may be shown by the evidence and proven at trial;
- (e) That Defendants be charged with all Court costs attributable to this action and such other costs reasonably incurred in the prosecution and trial of this case;
- (f) That Plaintiff be granted a trial by jury; and,
- (g) That Plaintiff be granted such other and further relief as may be shown by the evidence and the law, and as this Court may deem just and appropriate.

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

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P. Charles Scholle  
Attorney for Plaintiff  
Georgia Bar Number 629736

6340 Sugarloaf Parkway  
Suite 200  
Duluth, Georgia 30097  
770-717-5100

BARROW COUNTY SUPERIOR COURT

STATE OF GEORGIA

SHELDON ALLEN,

Plaintiff,

vs.

MATTHEW BENNETT AND JOHN  
DOES 1-5,

Defendants.

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JURY TRIAL DEMANDED

CASE NO.: \_\_\_\_\_

**PLAINTIFFS' FIRST INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS AND NOTICE TO PRODUCE TO  
DEFENDANT MATTHEW BENNETT**

COMES NOW SHELDON ALLEN Plaintiff in the above-styled action, and propounds the attached First Continuing Interrogatories to Defendant, MATTHEW BENNETT, pursuant to O.C.G.A. §9-11-33, §9-11-34, § 9-11-30(b)(5), and §24-10-26, respectively, to be answered separately and individually under oath.

Answers to these Interrogatories shall be served upon the attorney for the Plaintiff at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097 no later than forty-five (45) days after service of these Interrogatories, or at any hearing or deposition in the above matter which is scheduled prior to 45th day after service.

**PART I**

**INTRODUCTION AND DEFINITIONS**

(A) Each Interrogatory seeks information available to the Defendant, its attorneys and agents, and all persons acting in their behalf. Accordingly, as used herein, the term "Defendant," "you," "your," refer without limitation to the Defendant, the Defendant's attorneys or

investigators, insurers, agents and all other persons acting in the Defendant's behalf. Each of the Interrogatories shall be deemed to be continuing in the manner provided by law.

(B) As used herein, "person" means an individual firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity. When the term "identify" is used in conjunction with the term "person" or if the answer of any Interrogatory herein refers to a person (as defined herein), you are to state each such person's (1) full legal name, (2) present or last known address and telephone number, business or residential, and (3) occupation, job title, business affiliation and/or nature of business.

(C) When the term "identify" is used herein in conjunction with a document or other tangible thing, or if the answer to any Interrogatory refers to such a document or other tangible thing, you are to state with respect to each such item: (1) the date of the item, (2) the identity of the person who has custody or control of the item, and (3) the nature and substance of the item; all with sufficient particularity to enable it to be identified in a Request to Produce. Alternatively, you may produce the item, provided each document is appropriately marked so as to identify the Interrogatory to which the document is responsive.

(D) If any document or identification of any document or oral communication is withheld under a claim of privilege, provide information sufficient to determine the identity of the document or oral communication and, as well, state the basis for any asserted claim of privilege.

(E) As used herein, "date" should mean the exact day, month and year, if ascertainable, or if not, the best approximation (including relationship to other events).

(F) If you object to part of an Interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that Interrogatory. If you object to the scope or

time period of an Interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that Interrogatory. If you object to the scope or time period of an Interrogatory and refuse to answer for that scope of time, state your objection in an answer for that Interrogatory for the scope and time period that you believe is appropriate.

(G) If any of the following Interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the Interrogatory.

## **PART II**

### **INTERROGATORIES**

1.

Does any insurance agreement exist under the terms of which the person or company issuing the same may be called upon to satisfy all or part of any judgment which may be entered in favor of the Plaintiff in this action?

(a) If such an insurance agreement does exist, what are the limits of liability contained in the terms of any such agreement?

(b) If such an insurance agreement does exist, what are the legal names of any and all parties to the agreement itself or any further or subordinate agreement which in any way relates to the terms of any such agreement?

2.

State Defendant's full legal name and all other names, nicknames, or aliases used by Defendant, social security number, place of birth, date of birth, Defendant's present address, marital status and Defendant's driver's license number.

3.

If Defendant was employed on the date of the occurrence of the incident which is the subject of this action, state the name of Defendant's employer, the nature of Defendant's work, and the dates of employment, as well as Defendant's current employer and whether not Defendant was in the course of employment at the time of this collision.

4.

List in chronological order Defendant's residence addresses for the ten (10) years preceding the incident in this lawsuit, including Defendant's telephone number for each address and stating the date on which Defendant first resided at each address and the date on which Defendant last resided at each addresses, listing the names and last known address of all persons who live or lived at the same residence with the Defendant as well as the name and address of Defendant's landlords, if any, at each address given in answer to this interrogatory.

5.

Give the name, address, and phone number of each person who was at the last location from where Defendant departed before the collision in question.

6.

Please provide the record owner of the automobile you were driving at the time of the collision.

7.

Had the Defendant drunk any intoxicating beverages, ingested any medicines, whether legal or illegal, stimulants, depressants, chemicals, marijuana, cannabis or drugs within the twenty-four (24) hour period immediately preceding the occurrence of the vehicular incident which is the subject of this lawsuit and if so, state the time and place at which each was drunk or taken and the amount taken or drunk on each occasion.

8.

Has Defendant ever had his driver's license suspended, canceled, or revoked and if so, state the name of the state suspending, canceling, or revoking such license, the date of such suspension, cancellation, or revocation and the reason therefore.

9.

State whether or not Defendant has ever been arrested or charged with a crime, misdemeanor or felony, whether convicted or not, and if so, state the date and place of such arrest, a description of the particular infraction of law for which you were arrested or charged as well as the name and place of the Court to which the arrest charge was returnable, stating the disposition of the charge or arrest and the date and place of conviction, if convicted.

10.

State whether or not Defendant has ever been a party to a civil suit and if so, please state:

- (a) whether or not you were the plaintiff or defendant;
- (b) the Court in which said suit was filed;
- (c) the nature of the action;
- (d) the outcome of the action, that is, whether it was settled, tried, or dismissed; and,
- (e) the name and address of your attorney and the opposing party's attorney.

11.

With respect to the incident involving Defendant which is the subject of this lawsuit:

- (a) Does Defendant admit operation?
- (b) What was the origin, destination, intended route and purpose of the journey ending in the said collision?

Explain the circumstances under which the vehicle came into possession of the operator, and the purpose for which the vehicle was being used and its destination.

12.

If Defendant does not admit the date and place of the incident as alleged in the Complaint, state the date and place of the incident as you recall it.

13.

Are there any written, recorded, or transcribed statements made by anyone including Defendant concerning this action or the subject matter of this action? If so, state the method of the recording and/or transcription and the name and address of the person possessing the same and the name, phone number, and address of the person making the statement.

14.

Give the names and addresses of all persons who made photographs, drawings or videotapes of any persons or things relevant to the contentions of the parties in this action, stating who has possession of such pictures and negatives and where the same may be examined or inspected.

15.

State whether or not Defendant has any map, plat, drawing, videotape, photograph or other representation or depiction pertaining to the incident in question and if so, state with specificity an exact description of each.

16.

State the names and present addresses, residence and business, of each person reasonably believed by Defendant to have seen the incident as it occurred between the vehicles referred to in the Complaint of Plaintiff and/or to have seen either vehicle when it was within one block of the point of near impact and/or who saw each vehicle before it was removed from the area of the incident.

17.

State the names, addresses, telephone numbers, and business affiliations of any experts, whom Defendant intends to call to testify regarding their experience, investigation, examination, or knowledge concerning the subject occurrence or anything related to the contentions of Plaintiff in connection with this litigation.

18.

With respect to each expert named in Defendant's Response above, state in detail and with particularity the subject matter on which each expert is expected to testify, the substance of the facts and opinions to which each expert is expected to testify, and a summary of the grounds for each and every opinion.

19.

State what charges and citations Defendant was issued with regard to the vehicular incident which is the subject of this Complaint; the court in which you answered these charges and citations; how you pled to each of these citations and charges; and the ultimate disposition of these charges and citations.

20.

List each document which Defendant contends contains relevant evidence in support of the Defendant's defenses in this action, including, but not limited to, the name or other means of identifying each such document, a description of the nature and content of each document, as well as the name, address and telephone number of the person who has custody of each document.

21.

Give the names and addresses of each person, reasonably believed by Defendant or your counsel to have any information relevant to the subject matter of this lawsuit or any contentions which Defendant expects to make in the trial of this case, stating the location of each such person

at the time of the occurrence of the incident which is the subject of this lawsuit, stating the general nature of such information and in particular in what respect such information would support, substantiate, contradict, or rebut any contentions made heretofore by either of the parties in their pleadings or which Defendant intends to make in the trial of this case.

22.

List the alcoholic beverages that Defendant consumed between 12:01 a.m. June 12, 2010 and the time of the collision and list the addresses of the locations at which Defendant consumed these beverages.

23.

Please state what open container or containers that Defendant had in his possession at the time of the collision.

24.

Please describe your present legal immigration status in the United States.

### **PART III**

#### **PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND NOTICE**

#### **TO PRODUCE**

#### **TO DEFENDANT MATTHEW BENNETT**

#### **DEFINITIONS AND INSTRUCTIONS**

(A) This request for production of documents shall be deemed continuing to the extent permitted by O.C.G.A. § 9-11-26(e), so as to require defendant to serve upon plaintiff supplemental answers if defendant or its attorneys obtain further information between the time the answers are served and the time of trial.

(B) The following definitions shall apply to this request.

1. "Document", whether singular or plural, shall mean documents and other tangible things defined in the broadest sense permitted by the Georgia Civil Practice Act and shall include without limitation originals or, if such are not available, true copies of all memoranda, reports, evaluations, correspondence, interoffice communications or memoranda, agreements, contracts, invoices, checks, journals, ledgers, telegraphs, telexes, handwritten notes, periodicals, pamphlets, computer or business machine printouts, accountant's work papers, accountant's statements and writing, notations or records of meetings, books, papers, diaries, promissory notes, evidences of indebtedness, security agreements, loan applications, leases, documents creating or reflecting security interests, loan agreements, financing statements, deposit slips, advertising, office manuals, employee manuals, rules and regulations, reports of experts, drafts and copies of any of the foregoing, or such documents as are not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original, tape recordings or other sound or visual production materials and any other written matter, tangible or physical objects, however produced or reproduced, upon which words or phrases are affixed and from which by appropriate transfixion such matter or tangible thing may be produced in the possession, custody or control of either defendant or their agents, attorneys, or employees.

2. "Person" means any natural person, corporation, partnership, proprietorship, association, governmental entity, agency, group, organization or group of persons.

(C) Whenever production is requested of a document which is no longer in your possession, custody or control, your response should identify the document by name, number, form or description, and by date made, and the date which the document was most recently in your possession, custody and control, the disposition made of the document, and the identity of the person or person now in possession, custody or control of such document. If the document has been destroyed, the response should state the reason for its destruction and the identity of the person or persons who destroyed the document and who directed that document to be destroyed.

(D) If you object to part of a request and refuse to answer that part, state your objections and answer the remaining portion of that request. If you object to the scope or time period of the request and refuse to answer for that scope or time period, state your objection and answer the request for the scope or time period you believe is appropriate. If any of the following requests cannot be responded to in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the unanswered portions. If your response is qualified in any particular, please set forth the details of such qualifications.

(E) In the event you wish to assert attorney/client privilege or work-product exclusion, or both, as to any document requested by any of the following specific requests, then as to each document subject to such assertion, you are requested to provide plaintiffs with identification of such document in writing, such identification to include the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of the department associated with such document, a summary statement of the

subject matter of such document in sufficient detail to permit the Court to reach a determination in the event of a motion to compel, and an indication of the basis for assertion of the privilege or the like.

(F) The following Request for Production of Documents and Notice to Produce is made under the provisions of O.C.G.A. §9-11-34, §9-11-30(b)(5), and §24-10-26.

(G) You are hereby notified to produce for inspection and copying at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097, within 45 days after the date of service of this Request for Production of Documents and Notice to Produce; and pursuant to O.C.G.A. § 9-11-30(b)(5), at the time of the taking of Defendant's deposition, and pursuant to O.C.G.A. § 24-10-26, upon any hearing and upon the trial of the above-styled case, the following documents and records which are in your possession, custody or control, the same to be used as evidence by the Plaintiff, to wit:

1.

Defendant's insurance policies, insurance agreements, and any subordinate insuring agreements, which in any way, may provide the Defendant with insurance coverage in the event of an award for Plaintiff(s) of any sum by the way of judgment in this case.

2.

Any written, recorded, or transcribed statement made by anyone concerning this action or the subject of this matter action.

3.

Any maps, plats, drawings, estimates, videotapes, or photographs pertaining to the incident which is the subject matter of this lawsuit.

4.

Any statements of witnesses who claim to have seen the impact as it occurred between the vehicles referred to in Plaintiff's Complaint and/or claim to have seen either vehicle within one block of the incident and/or claim to have seen the vehicles prior to being removed from the accident area.

5.

Any statements made by anyone who claims to have heard or seen the Plaintiff or Defendant make any statement either against or for his/her/their interest at the accident scene or at any other time or location.

6.

A copy of the front and back of Defendant's driver's license.

7.

All documents which you and/or your representatives rely upon to demonstrate and support any facts relevant to this litigation and any documents which you and/or your representatives contend are relevant to the issues involved in this action.

8.

All reports, drawings, or correspondence made by experts whom Defendant expects to testify in this action.

9.

All documents referred to in Defendant's responses to Plaintiff's Interrogatories.

10.

All documents reflecting Defendant's past driving history.

11.

All documents referred to in Defendant's responses to Plaintiff's Interrogatories.

12.

All citations issued to Defendant as a result of this incident and all documents relating to the citations, including, but not limited to sentences, plea agreements or dispositions of these citations.

13.

All property damage estimates for Plaintiff's vehicle.

14.

All photographs of Plaintiff's vehicle.

15.

Defendant's itemized cell phone bill that includes calls made and times for the date and time of the collision.

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

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P. Charles Scholle  
Attorney for Plaintiff  
Georgia Bar Number 629736

6340 Sugarloaf Parkway  
Suite 200  
Duluth, Georgia 30097  
770-717-5100

BARROW COUNTY SUPERIOR COURT

STATE OF GEORGIA

SHELDON ALLEN,

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vs.

MATTHEW BENNETT AND JOHN  
DOES 1-5,

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JURY TRIAL DEMANDED

CASE NO.: \_\_\_\_\_

**PLAINTIFFS' FIRST REQUESTS FOR  
ADMISSION TO DEFENDANT MATTHEW BENNETT**

COMES NOW SHELDON ALLEN, Plaintiff in the above-styled action, and requests, pursuant to O.C.G.A. § 9-11-36, that Defendant admit under oath the truth of the facts hereinafter set forth, within forty-five (45) days after service of this discovery request upon said Defendant.

1.

Matthew Bennett has been correctly named as a Defendant in the present action with respect to the legal description of Defendant's name.

2.

The Superior Court of Barrow County has personal jurisdiction over Defendant.

3.

The Superior Court of Barrow County has subject matter jurisdiction over this action.

4.

The Superior Court of Barrow County is the court of proper venue in this action.

5.

This Defendant received process in this action, and such process and service is sufficient.

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

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P. Charles Scholle  
Attorney for Plaintiff  
Georgia Bar Number 629736

6340 Sugarloaf Parkway  
Suite 200  
Duluth, Georgia 30097  
770-717-5100