

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS**

ROBERT MOTTA,)
)
Plaintiff,)
)
v.) No.: 2022 LA 000332
)
ABIGAIL BIRD, individually and as agent of)
JAMES BIRD AND ANDREA BIRD, JAMES)
BIRD and ANDREA BIRD,)
)
Defendants.)

AMENDED COMPLAINT

Plaintiff, ROBERT MOTTA, by and through his attorneys, Seidman Margulis & Fairman LLP, for his Complaint against the Defendants, ABIGAIL BIRD, individually and as agent of JAMES BIRD and ANDREA BIRD, JAMES BIRD and ANDREA BIRD, states as follows:

COUNT I

Abigail Bird, individually and as agent of James Bird and Andrea Bird

1. At all times relevant stated herein, the Defendant, Abigail Bird, was a resident of the City of Joliet, Will County, Illinois.
2. On or about May 24, 2020, Plaintiff, Robert Motta, was operating a vehicle traveling in an eastbound direction in the right-most lane on Black Road at or near its intersection with 129th Infantry Drive, in the City of Joliet, County of Will, State of Illinois.
3. At all times relevant herein, Defendant, Abigail Bird, was a permissive user of a 2010 Volkswagen Jetta owned by Defendants James Bird and Andrea Bird.
4. At all times relevant herein, Defendant, Abigail Bird, was an agent of Defendants James Bird and Andrea Bird.

5. At the aforementioned time and place, Defendant, Abigail Bird, individually and as agent of James Bird and Andrea Bird, was operating the aforementioned motor vehicle traveling in an eastbound direction in the left-most through lane on Black Road at or near its intersection with 129th Infantry Drive, in the City of Joliet, County of Will, State of Illinois.

6. At the aforementioned time and place, Defendant, Abigail Bird, individually and as agent of James Bird and Andrea Bird, owed the duty to operate her vehicle in a reasonably safe manner and to exercise ordinary care and caution so as to not cause injuries to others, and specifically owed said duty to the Plaintiff, Robert Motta.

7. On or about May 24, 2020, Defendant, Abigail Bird, individually and as agent of James Bird and Andrea Bird, caused her vehicle to suddenly and without warning move into the right-most the lane resulting in a collision with the vehicle being operated by Plaintiff, Robert Motta.

8. That Defendant, Abigail Bird, was then and there guilty of one or more of the following careless and/or negligent acts and/or omissions in that she:

- (a) Carelessly and negligently operated, controlled and maintained the aforesaid motor vehicle;
- (b) Carelessly and negligently failed to exercise that degree of care and caution that a reasonable person under similar circumstances would have exercised in operation of said motor vehicle;
- (c) Carelessly and negligently failed to keep adequate, or any, lookout during the operation of her motor vehicle;
- (d) Carelessly and negligently caused her vehicle to collide with the Plaintiff's vehicle;
- (e) Failed to take any evasive action when reasonably necessary to do so in order to avoid a collision with the vehicles immediately in her path of travel;
- (f) Failed to sound her horn to warn other motorists of her approach when necessary to avoid a collision in violation of 625 ILCS 5/12-601;

(g) Operated her vehicle at a rate of speed which was greater than that which was reasonable given the traffic conditions in violation of 625 ILCS 5/11-601(a); and

(h) Moved from a lane without first ascertaining that such movement could be made safely, in violation of 625 ILCS 5/11-709.

9. That one or more of the aforesaid careless and/or negligent acts and/or omissions of the Defendant, Abigail Bird, individually and as agent of James Bird and Andrea Bird, was a proximate cause of the said collision and personal injuries hereinafter stated.

10. That as a direct and proximate result of one or more of the aforesaid careless and/or negligent acts and/or omissions of the Defendant, the Plaintiff sustained severe and permanent injuries, suffered great pain and suffering, has incurred and will continue to incur medical and related expenses, has sustained and will continue to sustain a loss of normal life, has become severely and permanently disfigured and has lost wages and corresponding benefits.

WHEREFORE, Plaintiff, Robert Motta, requests that judgment be entered in his favor and against the Defendant, Abigail Bird, for an amount in excess of the jurisdictional limits plus the costs of this suit.

COUNT II

James Bird and Andrea Bird, by and through their agent Abigail Bird

10. Plaintiff hereby adopts and realleges paragraphs 1 through 4 of Count I as though fully restated herein.

11. On or about May 24, 2020, Defendants, James Bird and Andrea Bird, by and through their agent Abigail Bird, were operating the aforementioned motor vehicle traveling in an eastbound direction in the left-most through lane on Black Road at or near its intersection with 129th Infantry Drive, in the City of Joliet, County of Will, State of Illinois.

12. At the aforementioned time and place, Defendants, James Bird and Andrea Bird,

by and through their agent Abigail Bird, owed the duty to operate their vehicle in a reasonably safe manner and to exercise ordinary care and caution so as to not cause injuries to others, and specifically owed said duty to the Plaintiff, Robert Motta.

13. As Defendants, James Bird and Andrea Bird, by and through their agent Abigail Bird, caused their vehicle to suddenly and without warning move into the right-most the lane resulting in a collision with the vehicle being operated by Plaintiff, Robert Motta.

14. On May 24, 2020, Defendants, James Bird and Andrea Bird, by and through their agent Abigail Bird, were then and there negligent in one or more of the following ways in that they:

- (a) Carelessly and negligently operated, controlled and maintained the aforesaid motor vehicle;
- (b) Carelessly and negligently failed to exercise that degree of care and caution that a reasonable person under similar circumstances would have exercised in operation of said motor vehicle;
- (c) Carelessly and negligently failed to keep adequate, or any, lookout during the operation of their motor vehicle;
- (d) Carelessly and negligently caused their vehicle to collide with the Plaintiff's vehicle;
- (e) Failed to take any evasive action when reasonably necessary to do so in order to avoid a collision with the vehicles immediately in their path of travel;
- (f) Failed to sound their horn to warn other motorists of their approach when necessary to avoid a collision in violation of 625 ILCS 5/12-601;
- (g) Operated their vehicle at a rate of speed which was greater than that which was reasonable given the traffic conditions in violation of 625 ILCS 5/11-601(a); and
- (h) Moved from a lane without first ascertaining that such movement could be made safely, in violation of 625 ILCS 5/11-709.


15. One or more of the aforementioned careless and/or negligent acts and/or omissions of the Defendants, James Bird and Andrea Bird, by and through their agent Abigail Bird, was a proximate cause of the said collision and personal injuries sustained by the Plaintiff.

16. As a direct and proximate result of one or more of the aforesaid careless and/or negligent acts and/or omissions of the Defendants, James Bird and Andrea Bird, by and through their agent Abigail Bird, the Plaintiff sustained severe and permanent injuries, suffered great pain and suffering, has incurred and will continue to incur medical and related expenses, has sustained and will continue to sustain a loss of normal life, has lost wages from work and has become severely and permanently disfigured.

WHEREFORE, Plaintiff, Robert Motta, requests that judgment be entered in his favor and against the Defendants, James Bird and Abigail Bird, for an amount in excess of the jurisdictional limits plus the costs of this suit.

SEIDMAN MARGULIS & FAIRMAN, LLP

By:



Attorney for Plaintiff

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