

FILED
COURT OF CLAIMS
OF OHIO

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IN THE COURT OF CLAIMS OF OHIO

DARLENE LANE FERRARO, :
 :
Plaintiff, :
 :
v. :

Case No. 2011-10371

Judge Patrick M. McGrath

OHIO STATE UNIVERSITY :
MEDICAL CENTER, :
 :
 :
Defendant.

ORIGINAL

DEFENDANT'S PRETRIAL STATEMENT

Pursuant to Local Rule 7(B), Defendant The Ohio State University Medical Center (OSUMC) submits the following Pretrial Statement. This matter has been bifurcated for trial. The liability portion of the case is scheduled to begin on December 9, 2013, and it is expected to last three days.

I. Trial counsel:

Jeffrey L. Maloon
Christopher P. Conomy
Assistant Attorneys General
Court of Claims Defense Section
150 East Gay Street
18th Floor
Columbus, Ohio 43215
Telephone: (614) 466-7447
Email: jeffrey.maloon@ohioattorneygeneral.gov
christopher.conomy@ohioattorneygeneral.gov

II. Summary of case:

This litigation surrounds a fatal traffic accident that occurred on September 10, 2009, on Interstate 71 approximately 300 feet north of milepost 238, in the city of Brook Park, Ohio. Two vehicles were involved in the accident, a 1997 Dodge Ram pickup truck driven by Gary Fury and a 2004 Mercedes C240 driven by Dr. Rolf Barth. At the time of the accident, approximately 9:23 p.m., Mr. Fury's pickup truck was stopped on I-71 north, just north of Snow Road. Dr. Barth was also traveling northbound on I-71 when he struck the rear of Mr. Fury's stopped pickup truck.

In the area where the accident occurred, I-71 is an eight-lane highway consisting of four northbound lanes and four southbound lanes, which are divided by a four-foot high concrete wall. The roadway is straight and the pavement was

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dry at the time of the collision. The only lighting of the area was from a luminaire mounted on a dual-mast arm attached to a pole anchored to the top of the concrete dividing wall. The mast arm extended approximately 15 feet into the northbound lane, placing the light approximately eight feet into the left-most lane (lane 4). The poles are spaced about 233 feet apart.

Prior to the collision, Jesse Fury and Plaintiff's decedent, Junior Lane, had exited Mr. Fury's pickup truck and were in the roadway attempting to reconnect a tow dolly that had come loose from its connection at the back of Mr. Fury's truck. The truck, which was completely stopped, was in the third lane of traffic. When the collision occurred, Mr. Lane was located in the area where the two vehicles come in contact and he was subsequently killed.

III. Legal issues:

1. Whether Rolf Barth, M.D. was negligent in the operation of his automobile on September 10, 2009.
2. Whether the Plaintiff's decedent was negligent just prior to the collision which occurred on September 10, 2009.
3. Whether Gary Fury was negligent just prior to the collision which occurred on September 10, 2009.
4. Assuming Rolf Barth, M.D. was negligent in the operation of his automobile on September 10, 2009, whether his negligence was a proximate cause of injury to, or the death of, Plaintiff's decedent.
5. Assuming Plaintiff's decedent was negligent just prior to the collision which occurred on September 10, 2009, whether his negligence was a proximate cause of his injuries and/or death.
6. Assuming Gary Fury was negligent just prior to the collision which occurred on September 10, 2009, whether his negligence was a proximate cause of injury to, or the death of, Plaintiff's decedent.
7. Assuming Rolf Barth, M.D., Plaintiff's decedent, or Gary Fury were negligent and each individual's negligence was a proximate cause of the decedent's injuries and/or death, the apportionment of fault among the negligent individuals.

IV. Fact witnesses:

Defendant anticipates calling the following lay witnesses:

1. Gary Fury (on cross-examination)

2. Jesse Fury (on cross-examination)
3. Rolf Barth, M.D.
Ohio State University Medical Center
4. Peter B. Jung
5. Anthony Angey
6. Chad Meeks
7. Detective Valentic
8. Patrolman Thomas Chmura
9. Patrolman Joseph Klemenc
10. Sergeant Myron Sulminski

Defendant respectfully reserves the right to call any witness identified and/or called by Plaintiff.

V. Expert witnesses:

Defendant anticipates calling the following expert witnesses:

1. Timothy J. Tuttle
2. Alfred E. Staubus, Pharm.D., Ph.D.

Defendant respectfully reserves the right to call any witnesses identified and/or called by Plaintiff.

VI. Exhibits:

Prior to trial, Defendant will seek a stipulation from Plaintiffs as to the authenticity and admissibility of the business records set forth below.

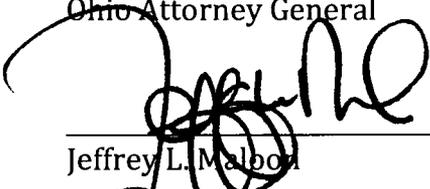
1. Photographs taken by the Brook Park Police Department. [Via representative of Brook Park Police Department]
2. The complete Traffic Crash Report including attachments. [Via representative of Brook Park Police Department]

3. Audio recordings of witness interviews taken by members of Brook Park Police Department. [Via representative of Brook Park Police Department]
4. Cuyahoga County Coroner's Toxicology Report, dated January 26, 2010, regarding Junior Lane. [Via proposed stipulation]
5. The vehicle specifications for a 1997 Dodge Ram pickup truck. [Via Mr. Tuttle]
6. The vehicle specifications for a 2004 Mercedes C240. [Via Mr. Tuttle]
7. Satellite photographs of the crash site dated September 2009. [Via Mr. Tuttle]
8. Illumination and luminance data from the crash site. [Via Mr. Tuttle]
9. Criminal history of Gary Fury from Brook Park Police Department and the Berea Municipal Court. [Via proposed stipulation]
10. Criminal history of Jesse Fury from the Berea Municipal Court. [Via proposed stipulation]
11. The Curriculum Vitae of Timothy Tuttle. [Via Mr. Tuttle]
12. The Curriculum Vitae of Alfred E. Staubus, Pharm.D., Ph.D. [Via Dr. Staubus]

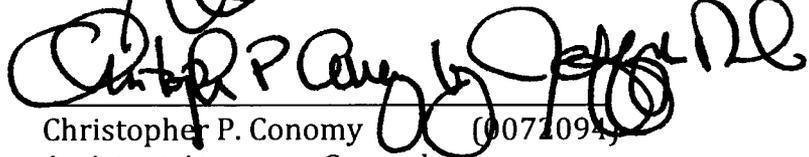
Defendant respectfully reserves the right to identify other exhibits including demonstrative exhibits,

Respectfully submitted,

MICHAEL DeWINE
Ohio Attorney General



Jeffrey L. Malbon (0007003)



Christopher P. Conomy (0071094)
Assistant Attorneys General
Court of Claims Defense Section

150 East Gay Street
18th Floor
Columbus, Ohio 43215
Telephone: (614) 466-7447
Facsimile: (614) 644-9185
jeffrey.maloon@ohioattorneygeneral.gov
christopher.conomy@ohioattorneygeneral.gov

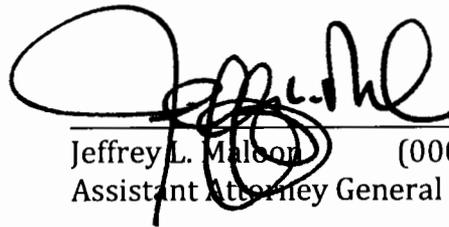
Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via regular U.S. Mail, postage prepaid, this 7th day of November 2013, upon the following counsel of record:

W. Craig Bashein, Esquire
Thomas J. Sheehan, Esquire
Bashein & Bashein Co., L.P.A.
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113

Paul W. Flowers, Esquire
801 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
Attorneys for Plaintiff



Jeffrey L. Maloon (0007003)
Assistant Attorney General