

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

EVA ROMAN-ELLIOT, SOVANNY
PHAI and MONICA PREAP

Plaintiffs,

v.

TRIPLE-S PROPIEDAD, INC.; ABC
INSURANCE COMPANIES; DOES I-X
and any other joint tortfeasors,

Defendants.

Civil No.: 15-2118 ()

RE: TORT ACTION FOR
NEGLIGENCE PURSUANT TO
ARTICLES 1802 & 1803, 31 L.P.R.A
§§ 5141 & 5142

JURY TRIAL DEMANDED

COMPLAINT

TO THE HONORABLE COURT:

APPEAR NOW the Plaintiffs, EVA ROMAN-ELLIOT, SOVANNY PHAI and MONICA PREAP (hereinafter referred to as “Plaintiffs”), through the undersigned counsel, and hereby state, allege, and request as follows:

JURISDICTIONAL BASIS

1. This case is based upon diversity jurisdiction under 28 U.S.C. §1332.
2. Plaintiffs are citizens of and are domiciled in the states of Massachusetts, New York, and California.
3. All Defendants are individuals, corporations, business entities, or partnerships who are citizens of Puerto Rico or of a state other than Massachusetts, New York, or California.

4. The matter in controversy exceeds the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.
5. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391, since the events and acts or omissions giving rise to this claim occurred in this district.

THE PARTIES

6. Plaintiff **EVA ROMAN-ELLIOT** (hereinafter “EVA” or “MS. ROMAN-ELLIOT”) is of legal age, a citizen and domiciled in the state of Massachusetts.
7. Plaintiff **SOVANNY PHAI** (hereinafter “SOVANNY” or “MS. PHAI”) is of legal age, a citizen and domiciled in the state of New York.
8. Plaintiff **MONICA PREAP** (hereinafter “MONICA” or “MS. PREAP”) is of legal age, a citizen and domiciled in the state of California.
9. Defendant **TRIPLE-S PROPIEDAD, INC.** is a corporation organized and operating under the laws of the Commonwealth of Puerto Rico, which insures Mr. Jorge Olivo Morales and his automobile for the acts and omissions described herein and/or is liable for the injuries and damages sustained by Plaintiffs.
10. Defendants **ABC INSURANCE COMPANIES** are corporations organized or operating under the laws of the Commonwealth of Puerto Rico or of a state other than Massachusetts, New York, and California, which are authorized to do business in Puerto Rico, and insure one or more co-defendants for the acts

and/or omissions described herein and/or are liable for the injuries and damages sustained by Plaintiffs.

11. Defendant **DOES I-X** are individuals, corporations, or entities that are citizens of Puerto Rico or a state other than Massachusetts, New York, and California, who are unknown and are jointly and severally liable for Plaintiffs' damages.

GENERAL ALLEGATIONS

12. On December 28th, 2014, at approximately 2:00AM, Plaintiffs were riding in a car that was being driven by MS. ROMAN-ELLIOT's cousin, Raul Claudio.
13. Plaintiffs, along with Raul Claudio, had their seatbelts securely fastened at all times.
14. Plaintiff EVA ROMAN-ELLIOT was sitting behind the driver on the far left side of the back seat.
15. Plaintiff SOVANNY PHAI was sitting in the middle of the back seat.
16. Plaintiff MONICA PREAP was sitting in behind the front passenger on the far right of the back seat.
17. The car transporting the Plaintiffs and Claudio approached a four-way intersection that was being directed by stoplights.
18. Plaintiffs had the green light in their favor, and thus, the right of way to continue on their route.

19. As Plaintiffs crossed the intersection, a car driven by Jorge Olivo Morales's 19-year-old son, C.O.G., ran the red light and rammed the left side of the car in which Plaintiffs were riding.
20. The impact was so severe that it caused Plaintiffs' vehicle to spin twice before coming to a stop.
21. Instantly, MS. PHAI felt an enormous amount of pain on her left shoulder and on both sides of her head as the impact caused her to hit both passengers who were sitting on either side of her.
22. MS. ROMAN-ELLIOT's face slammed against the glass window upon impact and she felt a horrible pain from her head down through her back. Her head also collided with MS. PHAI's head.
23. The force of the collision was so great that it caused the left side of MS. PREAP'S face to hit MS. PHAI's head upon impact. This blow caused MS. PREAP to lose consciousness. Jorge Olivo Morales's son, C.O.G., continued driving in an attempt to leave the scene, but was intercepted by two people before he could flee.
24. Upon being intercepted, C.O.G. seemed visibly nervous.
25. EMTs and the Police Department were called and provided assistance when they arrived on the scene.
26. MS. PHAI was taken out of the vehicle and she told EMTs she was in a lot of pain in her head and left shoulder area. The EMTs provided her with first aid and a sling and took her to the hospital.

27. MS. ROMAN-ELLIOT was in excruciating pain and could not get out of the car on her own, and EMTs helped to get her out of the vehicle and placed her in an ambulance and took her to the hospital.
28. MS. PREAP, was placed on a stretcher in extreme pain and semiconscious.
29. Plaintiffs' were rushed to Mennonite Hospital in Caguas's Emergency Room, where they remained for the better part of that day.
30. All plaintiffs were examined, evaluated, submitted to radiological studies, provided medication for pain and observed for a day before being discharged.
31. Among the findings were concussion injuries, hematomas throughout their bodies and faces, a fractured clavicle, edemas in the head, face, shoulders, and tongue.
32. Upon returning to their homes on the mainland, Plaintiffs went to their respective doctors for further treatment.

FIRST CAUSE OF ACTION – TRIPLE-S PROPIEDAD, INC.

33. The allegations contained above are incorporated by reference as if again fully set forth herein.
34. Defendant TRIPLE-S PROPIEDAD, INC. was, at the time herein pertinent, organized and doing business as such in Puerto Rico, and issued an insurance policy on behalf of Defendant JORGE OLIVO MORALES or another tortfeasor.
35. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is directly liable

for the negligence or fault of its insured.

36. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.
37. Jorge Olivo Morales was, at all times herein pertinent, the owner of the vehicle that caused Plaintiffs' injuries, a 2010 Kia Forte, license plate FTA-405.
38. Jorge Olivo Morales was, at all times herein pertinent, insured by Co-Defendant Triple-S Propiedad, Inc. for any damages caused while the 2010 Kia Forte, license plate FTA-405, was in use.
39. Jorge Olivo Morales is the father of 19-year-old C.O.G., who was driving the vehicle at the relevant time, ran a red light and impacted the car in which Plaintiffs were being transported.
40. Triple-S Propiedad, Inc. as the insurer of the owner of the 2010 Kia Forte with license plate number FTA-405, is responsible for the damages caused by that vehicle regardless of who is driving it at the time.
41. While driving his father's car, Jorge Olivo Morales's son, C.O.G., negligently, directly and proximately caused Plaintiff EVA ROMAN-ELLIOT's physical injuries and damages.
42. While driving his father's car, Jorge Olivo Morales's son, C.O.G., negligently, directly and proximately caused Plaintiff SOVANNY PHAI's physical injuries and damages.
43. While driving his father's car, Jorge Olivo Morales's son, C.O.G., negligently, directly and proximately caused Plaintiff MONICA PREAP's physical injuries

and damages.

44. As a direct and proximate result of Jorge Olivo Morales's son's negligence while driving his father's car, EVA ROMAN-ELLIOT sustained physical, emotional, mental, and economic damages.
45. As a direct and proximate result of Jorge Olivo Morales's son's negligence while driving his father's car, SOVANNY PHAI sustained physical, emotional, mental, and economic damages.
46. As a direct and proximate result of Jorge Olivo Morales's son's negligence while driving his father's car, MONICA PREAP sustained physical, emotional, mental, and economic damages.
47. As a result, Defendant TRIPLE-S PROPIEDAD, INC. is liable to Plaintiffs for the damages caused to them by Jorge Olivo Morales, C.O.G., or another tortfeasor.

SECOND CAUSE OF ACTION - ABC INSURANCE COMPANIES

48. The allegations contained above are incorporated by reference as if again fully set forth herein.
49. Defendants ABC Insurance Companies were, at the time herein pertinent, authorized to do business as such in Puerto Rico, and issued an insurance policy on behalf of Defendants or another tortfeasor.
50. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is directly liable for the negligence or fault of its insured.

51. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.

52. As a result, Defendants ABC Insurance Companies are liable to Plaintiffs for the damages caused to them by Defendants or another tortfeasor.

THIRD CAUSE OF ACTION - DOES I-X

53. The allegations contained above are incorporated by reference as if again fully set forth herein.

54. Defendants DOES I-X caused damages to Plaintiffs through fault or negligence in violation of 31 L.P.R.A. §5141 or 31 L.P.R.A. §5142 via their employees, agents, or assignees.

55. Defendants DOES I-X are jointly and severally liable for the damages caused to Plaintiffs.

DAMAGES

56. The allegations contained above are incorporated by reference as if again fully set forth herein.

57. As a result of the negligent acts or omissions of Defendants, MS. ROMAN ELLIOT has suffered physical, emotional, mental, and economic damages.

58. As a result of the negligent acts or omissions of Defendants, MS. PHAI has suffered physical, emotional, mental, and economic damages.

59. As a result of the negligent acts or omissions of Defendants, MS. PREAP has suffered physical, emotional, mental, and economic damages.

60. As a result of the negligent acts or omissions of Defendants MS. ROMAN ELLIOT suffered physical, emotional, mental, and economic damages, including, but not limited to, the physical and emotional pain and suffering of her injured neck, shoulders, and back; frustrating attempts to seek medical care; reduced wages as a result of having had to reduce her work schedule from full-time to part-time; not being able to enjoy her regular hobbies; current, constant pain in her neck, shoulders and back; and not being able to perform regular household chores; as well as other physical, emotional, and mental damages.
61. As a result of the negligent acts or omissions of Defendants, MS. ROMAN-ELLIOT suffered a cut to her left eye, a stiff and sore neck, heavy shoulders, stiffness in her back and a contusion to her right knee.
62. As a result of the negligent acts or omissions of Defendants, MS. ROMAN-ELLIOT had to return to work after only three (3) days and while continuing to be in pain, as she could not afford to be out of work due to financial obligations.
63. As a result of the negligent acts or omissions of Defendants, MS. ROMAN-ELLIOT searched for a physician who could see her, but her insurance required a referral from her primary care physician. In the meantime, she regularly followed up with her primary care physician, who merely kept telling her to take medication for the pain, which did not help.
64. As a result of the negligent acts or omissions of Defendants, MS. ROMAN-ELLIOT has been suffering constant, debilitating pain; she was finally able to see a chiropractor, whose sessions have somewhat decreased her pain, but not eradicated it completely.

65. As a result of the negligent acts or omissions of Defendants, MS. ROMAN-ELLIOT still suffers from neck, shoulder, and back pain, and has had to reduce her work hours to part-time instead of full time as a result, which has caused financial hardship on her, and she is also unable to fully perform regular household tasks.
66. As a result of the negligent acts or omissions of Defendants, MS. PHAI suffered physical, emotional, mental, and economic damages, including, but not limited to, the physical and emotional pain and suffering of her fractured left clavicle; extensive doctors' appointments and physical therapy sessions; lost wages from December 30th, 2014 thru February 17th, 2015; not being able to enjoy her regular hobbies; apprehension while driving at nighttime; bouts of insomnia; current, constant discomfort in her left shoulder area; and not being able to perform regular household chores; as well as other physical, emotional, and mental damages.
67. As a result of the negligent acts or omissions of Defendants, MS. PHAI's left clavicle was fractured, and she also suffered from shoulder, neck and head pain.
68. As a result of the negligent acts or omissions of Defendants, MS. PHAI was out of work from December 28th, 2014 thru February 17th, 2015 and had to incur in additional expenses due to her extensive amount of medical visits.
69. As a result of the negligent acts or omissions of Defendants, for several months after the accident, MS. PHAI suffered from difficulty sleeping due to the pain and discomfort of her left shoulder. She was also deprived from enjoying her regular hobbies during the wintertime, such as snowboarding, riding on

snowmobiles, and tubing.

70. As a result of the negligent acts or omissions of Defendants, for several weeks after the accident, MS. PHAI was very apprehensive about driving at night and still suffers from pain and discomfort while sleeping and while moving her left shoulder.
71. As a result of the negligent acts or omissions of Defendants, MS. PREAP has suffered physical, emotional, mental, and economic damages, including, but not limited to, the physical and emotional pain and suffering of her battered body and face; loss of vision; lost wages as a result of her recovery time; constant fear when operating a motor vehicle due to her vision impediment; as well as other physical, emotional, and mental damages.
72. As a result of the negligent acts or omissions of Defendants, MS. PREAP suffered MS. PREAP suffered scrapes and bruises on the left side of her body, a swollen face on her left side, and a swollen tongue, which also developed a blood clot.
73. As a result of the negligent acts or omissions of Defendants, MS. PREAP suffered eye trauma and an eye contusion.
74. As a result of the negligent acts or omissions of Defendants, MS. PREAP suffered loss of vision and, to this day, has to wear eyeglasses when driving due to her inability to visually recognize street signs and objects from far distance.
75. As a result of the negligent acts or omissions of Defendants, MS. PREAP has incurred in substantial debt in order to seek treatment in Massachusetts for her vision loss, which has caused financial hardship on her.

76. As a result of the negligent acts or omissions of Defendants, MS. PREAP suffered the loss of one week of work wages, which has caused financial hardship on her.
77. Plaintiff EVA ROMAN-ELLIOT's physical damages as a result of the injuries sustained in the incident have a reasonable value of no less than ONE HUNDRED THOUSAND DOLLARS (\$100,000).
78. Plaintiff EVA ROMAN-ELLIOT's emotional and mental damages as a result of the injuries sustained in the incident have a reasonable value of no less than ONE HUNDRED THOUSAND DOLLARS (\$100,000).
79. Plaintiff EVA ROMAN-ELLIOT's ongoing economic damages as a result of the injuries sustained in the incident have a reasonable value of no less than FIFTY THOUSAND DOLLARS (\$50,000)
80. Plaintiff SOVANNY PHAI's physical damages as a result of the injuries sustained in the incident have a reasonable value of no less than ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000).
81. Plaintiff SOVANNY PHAI's emotional and mental damages as a result of the injuries sustained in the incident have a reasonable value of no less than ONE HUNDRED THOUSAND DOLLARS (\$100,000).
82. Plaintiff SOVANNY PHAI's ongoing economic damages as a result of the injuries sustained in the incident have a reasonable value of no less than TWENTY THOUSAND DOLLARS (\$20,000).
83. Plaintiff MONICA PREAP's physical damages as a result of the injuries sustained in the incident have a reasonable value of no less than ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000).

84. Plaintiff MONICA PREAP's emotional and mental damages as a result of the injuries sustained in the incident have a reasonable value of no less than ONE HUNDRED THOUSAND DOLLARS (\$150,000).

85. Plaintiff MONICA PREAP's ongoing economic damages as a result of the injuries sustained in the incident have a reasonable value of no less than FIVE THOUSAND DOLLARS (\$5,000).

86. These are ongoing damages and will continue to accrue.

TRIAL BY JURY DEMANDED

87. Plaintiffs hereby demand trial by jury.

88. **WHEREFORE**, Plaintiffs demand judgment against Defendants, jointly and severally, in the amount of no less than **SEVEN HUNDRED AND SEVENTY FIVE THOUSAND DOLLARS (\$775,000)** plus costs incurred, reasonable attorneys' fees, and such other and further relief as to this Honorable Court may seem just and proper under the law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17th day of August, 2015.

Plaintiff's Counsel:

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