

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

CASE TYPE: Personal Injury

Amy Elizabeth Zaccardi and
Nicholas Steven Zaccardi Sr.,
Plaintiffs,

Court File No.: _____

v.

COMPLAINT

Randy Gene Moss,
Defendant.

PLAINTIFFS, as and for their complaint against the above-named Defendant, state and allege as follows:

PARTIES

1. Plaintiffs, Amy Zaccardi and Nicholas Zaccardi, are husband and wife, and are residents of the City of Coon Rapids, County of Anoka, State of Minnesota and both are over the age of majority.
2. Defendant, Randy Moss, resides at 11361 Hawkeye Court, in the City of Eden Prairie, County of Hennepin, State of Minnesota and is over the age of majority.

FACTS

3. Amy Zaccardi is employed by the City of Minneapolis as a traffic control agent - TCA-1. That as a traffic control agent, Amy Zaccardi's duties, amongst others, are to regulate and control the flow of traffic at various intersections within the city of Minneapolis.
4. That on September 24, 2002, Amy Zaccardi was on duty as a traffic control agent,

working the intersection at 7th Street and Marquette Avenue in the City of Minneapolis, County of Hennepin, State of Minnesota.

5. At the same time and place referenced in paragraph 4 above, Defendant, Randy Moss was operating a 2002 Lexus four-door sedan with license plate number FL-U49HZK and VIN # JTHBN30F410018002, traveling westbound on 7th Street in the middle-right lane of through travel.
6. As Defendant, Randy Moss approached the intersection of 7th Street and Marquette, he attempted to make an illegal turn from the middle-right lane of through travel to northbound Marquette Avenue.
7. At the same time and place as referenced above, Amy Zaccardi observed Defendant, Randy Moss' attempt to make said unlawful right turn and therefore instructed him to proceed forward on 7th Street and through the intersection of Marquette Avenue by utilizing her whistle and arm gestures.
8. Defendant, Randy Moss, ignored and/or otherwise refused to comply with Amy Zaccardi's traffic directives and continued to attempt to unlawfully turn his vehicle onto Marquette Avenue.
9. Thereafter, Amy Zaccardi continued to utilized techniques taught during the course of her training as a traffic control agent, by blowing her whistle and waiving her arm in an attempt to have Defendant, Randy Moss proceed through the intersection of Marquette Avenue.
10. Defendant, Randy Moss again continued to ignore Amy Zaccardi's traffic directives and proceeded unlawfully onto Marquette Avenue striking Amy Zaccardi with his motor

vehicle.

11. Defendant, Randy Moss continued to push Amy Zaccardi down northbound Marquette Avenue, weaving in and about the lane of travel, for approximately one half block until he accelerated his motor vehicle causing it to forcibly knock Amy Zaccardi to the pavement.
12. As a direct result of the impact and fall to the pavement, Amy Zaccardi suffered severe and permanent physical and emotional injuries.

COUNT ONE - ASSAULT AND BATTERY

13. Plaintiffs restate and reallege paragraphs 1 through 12 above as though fully set forth herein.
14. Defendant, Randy Moss, intentionally engaged in harmful and offensive contact with Amy Zaccardi.
15. Defendant, Randy Moss' actions caused fear in Amy Zaccardi that she would be physically harmed.
16. Said contact was not welcome and was harmful and offensive to Amy Zaccardi.
17. Said contact caused physical and emotional pain to Amy Zaccardi.
18. As a direct and proximate cause of said contact, Amy Zaccardi has incurred and will in the future incur medical and hospitalization expenses for the treatment of her injuries; has in the past and will in the future incur loss of earnings and earning capacity; has in the past and will in the future suffer from severe and permanent bodily injuries; has in the past and will in the future suffer from embarrassment and grave emotional pain all in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00).

19. That as a direct and proximate result of the injuries sustained by Amy Zaccardi, Nicholas Zaccardi has suffered grievous loss of his wife's care, companionship, society and services all to his damage in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00).

COUNT TWO - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

20. Plaintiffs restate and reallege paragraph 1 through 19 above as though fully set forth herein.
21. Defendant, Randy Moss, had a duty to refrain from humiliating, abusive, assaultive, and degrading behavior towards Amy Zaccardi.
22. Defendant, Randy Moss, violated that duty by his intimidation, threats and abusive conduct in reckless disregard of Amy Zaccardi's rights, safety and interests.
23. Defendant, Randy Moss, knew or should have known that his willful and intentional conduct would cause Amy Zaccardi to suffer emotional distress.
24. The conduct and actions of Defendant, Randy Moss, constitute outrageous conduct beyond the bounds of decency and are intolerable in a civilized society.
25. As a direct and proximate result of Defendant, Randy Moss' outrageous conduct, Amy Zaccardi has suffered severe emotional distress and injury to her body and mind, so that she has in the past and will in the future, incur medical and hospitalization expenses for the treatment of her injuries; has in the past and will in the future incur loss of earnings and earning capacity; has in the past and will in the future suffer from severe and permanent bodily injury; has in the past and will in the future suffer from embarrassment

and grave emotional pain; all in an amount of Fifty Thousand and 00/100 dollars (\$50,000.00).

26. That as a direct and proximate result of the injuries sustained by Amy Zaccardi, Nicholas Zaccardi has suffered grievous loss of his wife's care, companionship, society and services; all to his damage in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00).

COUNT THREE - NEGLIGENCE

27. Plaintiffs restate and reallege paragraphs 1 through 26 above as though fully set forth herein.
28. At the time and on the occasion described above, Defendant, Randy Moss, negligently and carelessly drove and operated his motor vehicle in such a manner by committing various acts and omissions, each of which singularly or in combination with others was a direct and proximate cause of Amy Zaccardi's injuries and damages:
- a. Failing to maintain a proper lookout;
 - b. Failing to safely stop or slow his vehicle;
 - c. Failing to properly and safely apply his brakes in timely or proper fashion;
 - d. Failing to keep his vehicle under control;
 - e. Failing to turn or swerve to avoid impact with Amy Zaccardi;
 - f. Failing to yield the right of way.

29. As a direct and proximate result of the negligence of Defendant, Randy Moss, Amy Zaccardi has incurred and will in the future incur medical and hospitalization expenses for the treatment of her injuries; has in the past and will in the future incur loss of

earnings and earning capacity; has in the past and will in the future suffer from severe and permanent bodily injuries; has in the past and will in the future suffer from embarrassment and grave emotional pain all in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00).

30. That as a direct and proximate result of the injuries sustained by Amy Zaccardi, Nicholas Zaccardi has suffered grievous loss of his wife's care, companionship, society and services; all to his damages in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00).

COUNT FOUR - NEGLIGENCE PER SE

31. Plaintiffs restate and reallege paragraphs 1 through 30 above as though fully set forth herein.

32. At the time and on the occasion above described Defendant, Randy Moss, negligently and carelessly drove and operated his motor vehicle in violation of Minn. Stat. § 169.13 Subd.1 and 2; 169.19 Subd. 1(a); 169.89 Subd. 1(a), Mpls. Ord. 466.130 and Mpls. Ord. 466.230. Said actions of Defendant, Randy Moss constitute negligence per se and are prima facie evidence of negligence.

33. As a direct and proximate result of the negligence per se and prima facie negligence of Defendant, Randy Moss, Amy Zaccardi has incurred and will in the future incur medical and hospitalization expenses for the treatment of her injuries; has in the past and will in the future incur loss of earnings and earning capacity; has in the past and will in the future suffer from severe and permanent bodily injuries; has in the past and will in the future suffer from embarrassment and grave emotional pain all in an amount in excess of Fifty

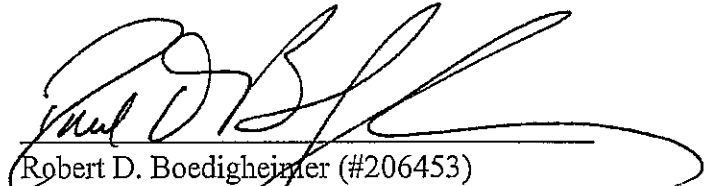
Thousand and 00/100 dollars (\$50,000.00).

34. That as a direct and proximate result of the injuries sustained by Amy Zaccardi, Nicholas Zaccardi has suffered grievous loss of his wife's care, companionship, society and services; all to his damages in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00).

WHEREFORE, Plaintiffs, and each of them, pray for judgment in an amount in excess of Fifty Thousand and 00/100 dollars (\$50,000.00) together with pre-judgment and post-judgment interest; costs and disbursements incurred herein; together with any further relief as the Court deems just and equitable.

McCLOUD & BOEDIGHEIMER, P.A.

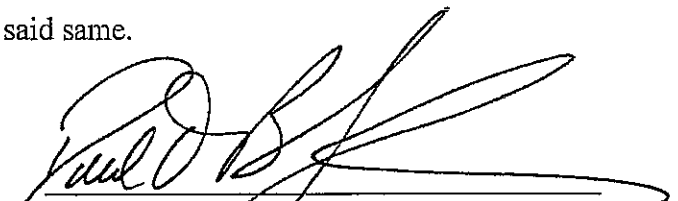
Dated: 12/12/02


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ACKNOWLEDGMENT

The undersigned attorney hereby acknowledges that sanctions may impose under Minnesota Statute Section 549.211 for violating said same.

Dated: 12/12/02


Robert D. Boedigheimer