



Electronically issued
Délivré par voie électronique : 20-Nov-2020
Toronto

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

IHOR VOLOSHYN

Plaintiff

- and -

PAVEL A. PATRIKI

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGEMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$2,000.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiffs' claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

DATE: November 20, 2020

Issued by: _____
Local Registrar

Address of Court Office: 330 University Avenue
Toronto, Ontario
M5G 1R7

TO: PAVEL A. PATRIKI
55 East Drive
Toronto, Ontario
M6N 2N8

CLAIM

1. The Plaintiff Ihor Voloshyn claims:
 - (a) General Damages in the amount of \$500,000.00;
 - (b) Special Damages in the amount of \$300,000.00;
 - (c) Such further and other special damages that may be incurred prior to the date of the trial or ultimate disposition of this action, the amount of which will be furnished to the Defendant;
 - (d) Pre-Judgment interest pursuant to the provisions of The Courts of Justice Act, R.S.O. 1990, Ch. C.43, and amendments thereto;
 - (e) His costs of this action on a substantial indemnity basis, plus HST; and
 - (f) Such further and other relief as to this Honourable Court may deem just.
2. The Plaintiff resides in the City of Toronto, in the Province of Ontario. At all material times the Plaintiff was a pedestrian.
3. At all material times the Defendant Pavel A. Patriki resided in the City of Toronto, in the Province of Ontario, and was the owner and the driver of a 2015 Ford F150 motor vehicle bearing Ontario licence marker DOPCA, hereinafter referred to as the Defendant's vehicle.
4. On or about November 26, 2018, at approximately 10:10 a.m., the Plaintiff was crossing Scarlett Road westbound within a pedestrian crossover at the intersection with East Drive in the city of Toronto.

5. At the same time the Defendant's vehicle was proceeding westbound on East Drive approaching the above mentioned intersection in the left lane.
6. While making a left turn onto Scarlett Road, the Defendant's vehicle struck the Plaintiff when he was crossing Scarlett Road, causing him to fall to the ground and sustain injuries.
7. The Plaintiff states that his injuries were caused by the reckless and negligent acts of the driver of the Defendant's vehicle. The said driver drove the motor vehicles in a reckless manner disregarding the possible consequences of his actions, as a result of which the Plaintiff sustained serious and permanent injuries.
8. The Plaintiff states that the said accident and the resulting injuries to him were caused by the negligence of the Defendant. The particulars of the Defendant's negligence include but are not limited to the following:
 - i. he was an incompetent driver on the occasion in question, lacking in reasonable skill and self-command and one who ought not to have attempted to operate a motor vehicle;
 - ii. he was driving without maintaining a proper or any lookout;
 - iii. he failed to have the motor vehicle he was operating under proper care or control;
 - iv. he was operating a motor vehicle without due care and attention or without reasonable consideration for the safety of others, or, alternatively, he failed to take any reasonable precaution to avoid the collision;

- v. he was driving at a high and excessive rate of speed having due regard to the road, weather and traffic conditions;
- vi. he failed to stop his vehicle before entering the pedestrian crossover and failed to allow the Plaintiff to finish crossing the street within a crossover;
- vii. he failed to stop his vehicle and/or to veer it off in time to avoid striking the Plaintiff;
- viii. he failed to apply his brakes properly or at all in order to avoid striking the Plaintiff;
- ix. he failed to stop the motor vehicle;
- x. he failed to maintain the motor vehicle in a proper working order;
- xi. he failed to inspect the braking system to see if it was functioning properly or at all;
- xii. he was operating the motor vehicle which he knew or ought to have known was in a defective mechanical condition;
- xiii. he was operating the motor vehicle while his ability was impaired by his failure to wear proper corrective lenses;
- xiv. on the occasion in question, he operated his motor vehicle while distracted or while his ability to drive a motor vehicle was impaired by drugs, alcohol, stress, illness, the use of a cellular telephone, GPS device, or a combination thereof, of which impairment he was or should have been aware.

9. The Plaintiff pleads and relies upon the provisions of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, sections 128, 130, 140, 141, 142, 192 and 193, the *Insurance Act*, R.S.O. 1990, c. I.8, and the *Negligence Act*, R.S.O. 1990, c. N. 1, and amendments thereto.
10. As a result of the accident and its sequelae, the Plaintiff sustained serious and permanent impairment of important physical, mental and psychological functions caused by continuing injuries which include injuries to his head, neck, shoulders, chest, back and legs, and his system generally, including headaches, dizziness, anxiety, depression, severe pain and suffering, loss of mobility, and loss of sleep. These injuries are continuing up to the present.
11. As a result of the accident and the injuries, the Plaintiff has experienced pain, stiffness, limitation of motion and functions in the affected areas, and will continue to do so. He has had to undergo a series of medical treatments and will require further medical care and treatment.
12. The Plaintiff has been disabled in part or completely from performing his work duties by reason of his injuries, and will not be able to perform them in part or completely in the future. He has been absent from work for some periods of time. He has sustained and will continue to sustain loss of income and claims therefrom the Defendant. He has sustained a loss of competitive advantage in the labour market.
13. The quality of life of the Plaintiff has been diminished permanently. His impairments have disabled him from performing his household and home maintenance chores, and regular activities of daily living to the extent that he was able to do so before the collision

and resulting injuries. His abilities to socially interact with his family and others have been significantly compromised by his impairments. He has suffered from a loss of enjoyment of life which continues into the future.

14. The Plaintiff remains under the care of medical specialists. He continues to suffer and require treatments, and to date the full extent of his injuries, disabilities and future treatments as yet have not been fully determined. He will continue to suffer from the effects of his injuries for an indefinite period of time.
15. As a result of the collision and the Defendant's negligence, the Plaintiff has been put to expenses related to medical and other treatments. Full particulars of such accounts will be made available to the Defendant during the course of this proceeding.

The Plaintiff proposes that this action be tried at Toronto, Ontario.

Date: November 20, 2020

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Lawyer for the Plaintiff
(LSUC #49618G)

IHOR VOLOSHYN

Plaintiff

- and -

PAVEL A. PATRIKI

Defendant

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

STATEMENT OF CLAIM

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