

FILED
10-28-2021
Clerk of Circuit Court
Chippewa County, WI
2021CV000282
Honorable James M
Isaacson
Branch 2

STATE OF WISCONSIN
CIRCUIT COURT
CHIPPEWA COUNTY

RYAN D. ZWIEFELHOFER,
Individually, and as Parent and General
Guardian of his minor children
Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer
and Alayna L. Zwiefelhofer
4244 119th Street
Chippewa Falls, WI 54729

and

Case No. 21CV_____

DIANNE M. ZWIEFELHOFER,
Individually, and as Parent and General
Guardian of her minor children
Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer
and Alayna L. Zwiefelhofer
4244 119th Street
Chippewa Falls, WI 54729

Case Code: 30101

and

MADALYN C. ZWIEFELHOFER,
by her Guardian ad Litem, Timothy J. Eiden,
392 Red Cedar Street, Suite 5
Menomonie, WI 54751

and

BROOKE L. ZWIEFELHOFER,
by her Guardian ad Litem, Ali Ellefsen
4112 Oakwood Hills Pkwy, Suite 100
Eau Claire, WI 54701

and

ALAYNA L. ZWIEFELHOFER
by her Guardian ad Litem, Ali Ellefsen,
4112 Oakwood Hills Pkwy, Suite 100
Eau Claire, WI 54701

and

DAWSON J. KOUTNEY
211 Wisconsin St., Apt 308
Eau Claire, WI 54703

Plaintiffs,

vs.

COLTEN R. TREU
Dodge Correctional Institution
1 West Lincoln Street
Waupun, WI 53963

and

BLUE CROSS BLUE SHIELD OF WISCONSIN
N17 W24340 Riverwood Drive
Waukesha, WI 53188

and

AUTO CLUB GROUP INSURANCE COMPANY
1 Auto Club Drive
Dearborn, MI 48126

Defendants.

SUMMONS

THE STATE OF WISCONSIN:

To each person named above as a Defendant:

You are hereby notified that the plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action. Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Chippewa County

Courthouse, 711 N. Bridge Street, Chippewa Falls, WI 54729 and to GINGRAS, THOMSEN & WACHS, LLP, plaintiffs' attorneys, whose address is 101 Putnam Street, Post Office Box 390, Eau Claire, WI 54702-0390. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: October 28, 2021.

GINGRAS, THOMSEN & WACHS, LLP

Electronically signed by /s/ Dana J. Wachs

Dana J. Wachs

State Bar No: 1009908

Beverly Wickstrom

State Bar No.: 1009849

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Dianne M. Zwiefelhofer, Madalyn Zwiefelhofer by
her Guardian ad Litem Timothy J. Eiden, Brooke L.
Zwiefelhofer by her Guardian ad Litem Ali
Ellefsen, Alayna L. Zwiefelhofer by her Guardian
ad Litem Ali Ellefsen, and Dawson J. Koutney

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392 Red Cedar Street, Suite 5
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DAWSON J. KOUTNEY
211 Wisconsin St., Apt 308
Eau Claire, WI 54703

Plaintiffs,

vs.

COLTEN R. TREU
Dodge Correctional Institution
1 West Lincoln Street
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and

BLUE CROSS BLUE SHIELD OF WISCONSIN
N17 W24340 Riverwood Drive
Waukesha, WI 53188

and

AUTO CLUB GROUP INSURANCE COMPANY
1 Auto Club Drive
Dearborn, MI 48126

Defendants.

COMPLAINT

Now come Plaintiffs, RYAN D. ZWIEFELHOFER and DIANNE M. ZWIEFELHOFER, Individually, and as Parents and General Guardians of their minor children Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer and Alayna L. Zwiefelhofer, MADALYN C. ZWIEFELHOFER, by her Guardian ad Litem TIMOTHY J. EIDEN, BROOKE L. ZWIEFELHOFER, by her Guardian ad Litem ALI ELLEFSEN, ALAYNA L. ZWIEFELHOFER, by her Guardian ad Litem ALI ELLEFSEN, and DAWSON J. KOUTNEY (collectively

“Plaintiffs”), by Gingras, Thomsen & Wachs, LLP, and Robins Kaplan, LLP, their attorneys, and as and for their Complaint in this matter, allege as follows:

1. Plaintiff Ryan D. Zwiefelhofer is Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer and Alayna L. Zwiefelhofer’s biological and legal father, and resides at 4244 119th Street, Chippewa Falls, Wisconsin 54729, with his spouse, Dianne M. Zwiefelhofer and daughters Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer and Alayna L. Zwiefelhofer. Ryan D. Zwiefelhofer is the natural guardian of Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer and Alayna L. Zwiefelhofer.

2. Plaintiff Dianne M. Zwiefelhofer is the biological mother of minors Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer, and Alayna L. Zwiefelhofer, and resides at 4244 119th Street, Chippewa Falls, Wisconsin 54729, with her spouse, Ryan D. Zwiefelhofer and minor daughters. Dianne M. Zwiefelhofer is the natural guardian of Madalyn C. Zwiefelhofer, Brooke L. Zwiefelhofer and Alayna L. Zwiefelhofer. On November 3, 2018, Dianne M. Zwiefelhofer was present for, was in the zone of danger, and witnessed Madalyn C. Zwiefelhofer’s serious injury, when Madalyn C. Zwiefelhofer was struck by the motor vehicle.

3. Plaintiff Madalyn C. Zwiefelhofer was struck by a motor vehicle driven by Colten Treu and seriously injured on November 3, 2018 in the Village of Lake Hallie, Chippewa County, Wisconsin. At the time of the incident, Madalyn C. Zwiefelhofer was a minor; she continues to be a minor. At the time of her injury and throughout the present day, Madalyn C. Zwiefelhofer has lived with her married parents, Ryan D. Zwiefelhofer and Dianne M. Zwiefelhofer, and her minor sisters, Brooke L. Zwiefelhofer and Alayna L. Zwiefelhofer in Chippewa Falls, Chippewa County, Wisconsin. She appears in this case by her Guardian ad Litem Timothy J. Eiden, Eiden & Hatfield, LLC, 392 Red Cedar Street, Suite 5, Menomonie, WI 54751.

4. Plaintiff Brooke L. Zwiefelhofer is Madalyn C. Zwiefelhofer's younger sister. On November 3, 2018, Brooke L. Zwiefelhofer was present for, was in the zone of danger, and witnessed Madalyn C. Zwiefelhofer's serious injury, when Madalyn C. Zwiefelhofer was struck by the motor vehicle. She appears in this action by her Guardian ad Litem Ali Ellefsen, Guelzow & Ellefsen, Law Offices, Ltd., 4112 Oakwood Hills Pkwy, Suite 100, Eau Claire, WI 54701.

5. Alayna L. Zwiefelhofer is Madalyn C. Zwiefelhofer's younger sister. She has lost the society and companionship of Madalyn C. Zwiefelhofer. She appears in this action by her Guardian ad Litem Ali Ellefsen, Guelzow & Ellefsen, Law Offices, Ltd., 4112 Oakwood Hills Pkwy, Suite 100, Eau Claire, WI 54701.

6. Dawson J. Koutney is an adult residing at 211 Wisconsin St., Apt. 308, Eau Claire, WI 54703. He is the older brother of Madalyn C. Zwiefelhofer. He has lost the society and companionship of Madalyn C. Zwiefelhofer.

7. Defendant Colten R. Treu is a resident of Dodge Correctional Institution, 1 West Lincoln Street, Waupun, WI 53963.

8. Defendant Auto Club Group Insurance Company is a foreign insurance company with its principal business address located at 1 Auto Club Drive, Dearborn, MI 48126. Its registered agent for service of process in the state of Wisconsin is CT Corporation System, 301 S. Bedford St., Suite 1, Madison, WI 53703. Defendant Auto Club Group Insurance Company issued a policy of motor vehicle insurance which covered plaintiffs at all relevant times, and made payments to or on behalf of plaintiffs under the medical payments provision of its policy. Defendant Auto Club Group Insurance Company is made a party to this action so it can pursue any subrogation claims it may have.

9. Defendant Blue Cross Blue Shield of Wisconsin (“Blue Cross”) is a domestic insurance company with its principal place of business located at N17 W24340 Riverwood Drive, Waukesha, WI 53188. Its registered agent for service of process in the state of Wisconsin is CT Corporation System, 301 S. Bedford St., Suite 1, Madison, WI 53703. Defendant Blue Cross issued a policy of health insurance which covered plaintiffs at all relevant times, and made payments to or on behalf of plaintiffs under the policy. Defendant Blue Cross is made a party to this action so it can pursue any subrogation claims it may have.

10. On November 3, 2018, while operating his vehicle on Highway P in Chippewa County, Wisconsin, Defendant Colten Treu was negligent, striking Madalyn Zwiefelhofer with his vehicle and causing injuries and damages to plaintiffs.

11. As a result of the November 3, 2018 incident, Madalyn C. Zwiefelhofer sustained serious, permanent, life-threatening, disabling, and debilitating injuries, has endured pain and suffering in the past and will incur pain and suffering in the future and sustained other injuries and damages.

12. As a result of the November 3, 2018 incident, Ryan D. Zwiefelhofer incurred medical expenses on behalf of Madalyn C. Zwiefelhofer and Brooke L. Zwiefelhofer; provided nursing services and other aid and assistance to Madalyn C. Zwiefelhofer; lost the society and companionship of Madalyn C. Zwiefelhofer; lost wages; and suffered other injuries and damages.

13. As a result of the November 3, 2018 incident, Dianne M. Zwiefelhofer incurred medical expenses on behalf of Madalyn C. Zwiefelhofer and Brooke L. Zwiefelhofer; provided nursing services and other aid and assistance to Madalyn C. Zwiefelhofer; lost the society and companionship of Madalyn C. Zwiefelhofer; suffered emotional distress; lost wages; incurred medical expenses for her own treatment and suffered other injuries and damages.

14. As a result of the November 3, 2018 incident, Brooke L. Zwiefelhofer suffered emotional distress; lost the society and companionship of Madalyn C. Zwiefelhofer and suffered other injuries and damages.

15. As a result of the November 3, 2018 incident, Alayna L. Zwiefelhofer lost the society and companionship of Madalyn C. Zwiefelhofer and suffered other injuries and damages.

16. As a result of the November 3, 2018 incident Dawson J. Koutney lost the society and companionship of Madalyn C. Zwiefelhofer and suffered other injuries and damages.

WHEREFORE, plaintiffs demand judgment as follows:

a. For compensatory damages commensurate with the facts of this case as adduced at the time of trial;

b. For their costs and disbursements in this matter, together with reasonable attorney's fees;

c. For a determination of the rights and interests, if any, of defendants Blue Cross Blue Shield of Wisconsin, and Auto Club Group Insurance Company.

d. For the opportunity to amend or modify the provisions of this Complaint, if necessary or appropriate, after further discovery is completed;

e. For such other and further relief as the Court may deem just and proper;

f. For pre-judgment interest as permitted by law.

Dated: October 28, 2021.

GINGRAS, THOMSEN & WACHS, LLP

Electronically signed by /s/ Dana J. Wachs

Dana J. Wachs

State Bar No: 1009908

Beverly Wickstrom

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