

IN THE CIRCUIT COURT OF THE 8TH
JUDICIAL CIRCUIT IN AND FOR
ALACHUA COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO.: 01-2021-CA-0523

DIVISION J

JAMES PAXTON, as Putative Personal
Representative of the Estate of
MARGARET PAXTON, deceased, and
himself individually, and LISA PAXTON,

Plaintiffs,

v.

MIGUEL A. FIGUEROA,

Defendants.

_____ /

COMPLAINT FOR WRONGFUL DEATH

The Plaintiff, JAMES PAXTON, as the Putative Personal Representative of the Estate of MARGARET PAXON, the deceased minor child (the "Estate"), on behalf of the Estate and the survivors, himself, and LISA PAXTON, sues the Defendant MIGUEL A. FIGUEROA and alleges as follows:

JURISDICTIONAL STATEMENT AND IDENTIFICATION OF PARTIES

1. This is an action for damages in excess of the minimum jurisdictional limits of this Court, exclusive of interest and costs.

2. This case arises out of a "hit and run" vehicle and pedestrian collision that occurred in Alachua County, Florida, on December 9, 2020, killing 18-year-old Margaret "Maggie" Paxton (the "Crash").

3. Plaintiff is the surviving father and Putative Personal Representative of the estate of his minor child, Maggie Paxton, who was killed in the Crash. He brings the claims asserted below on behalf of the Estate, himself as surviving parent, and the surviving mother, Lisa Paxton.

4. Defendant Miguel A. Figueroa is resident of Alachua County, Florida. At the time of the Crash, he was the owner, and upon information and belief the operator, of the vehicle that collided with Maggie Paxton, a 2003 blue BMW 530, VIN No. WBADT63463CK36887 (the “BMW”).

5. Any and all conditions precedent to the maintenance of this action have been complied with.

6. Venue is proper in Alachua County, Florida, where the events giving rise to this cause of action occurred and certain of the Defendants reside.

FACTS GIVING RISE TO CAUSE OF ACTION

7. On December 9, 2020, 18-year-old Maggie Paxton was a student at the University of Florida in Gainesville, Florida.

8. That evening, Maggie visited “midtown,” the popular area of restaurants and shops for University of Florida students.

9. Midtown is located adjacent to University of Florida’s campus but separated by the roadway University Avenue.

10. University of Florida students frequently cross University Avenue going to and from campus and midtown.

11. At around 10:50 p.m. on December 9, Maggie was returning to her dorm on campus from midtown.

12. To do so, she walked to a recognized and common crosswalk at the intersection of University Avenue and Gale Lemerand Drive (the “Intersection”).

13. However, as Maggie was crossing University Avenue towards campus, the BMW was traveling westbound on University Avenue at a high rate of speed and violently struck Maggie in the Intersection while she was still in the crosswalk.

14. The driver of the BMW then fled the scene immediately.

15. The police and emergency personnel arrived only minutes later, but by that time, Maggie had already passed way in the middle of the roadway.

16. The driver of the BMW never returned to the scene of the Crash, but debris and parts from the BMW were left on the roadway from the vehicle's impact with Maggie.

17. It was this evidence, along with surveillance footage and witness statements, that led the investigating officers to the BMW and its owner Defendant Miguel Figueroa.

18. The BMW was eventually found at Best Motor Works & Sports, located at 65 SE 10th Ave, Gainesville, FL 32601 ("Best Motor Works").

19. The investigating officers contacted Defendant Figueroa, the owner of the BMW and an employee of Best Motor Works, requesting access into the shop and the BMW. But Defendant Figueroa declined forcing the officers to obtain a warrant.

20. The BMW was found with blood and damage to the passenger side hood.

21. The BMW was positioned between multiple rows of cars, as if it were being hidden from plain sight.

COUNT I

NEGLIGENT OPERATION OF A VEHICLE

22. The Plaintiff adopts and realleges the prior paragraphs and further alleges:

23. On December 9, 2020, Defendant Figueroa negligently operated the BMW in the following ways:

- a. Failing to operate the BMW in a safe and reasonable manner;
- b. Negligently approaching the Intersection at a high rate of speed;
- c. Failing to approach the Intersection in a reasonable and prudent manner under the circumstances;
- d. Negligently failing to operate the BMW in compliance with state and local traffic laws;

- e. Negligently failing to pay attention to the roadway as he operated the BMW;
- f. Failing to observe Maggie Paxton in the Intersection, who was there to be seen and avoided;
- g. Negligently colliding with Maggie Paxton;
- h. Failing to take appropriate evasive action to avoid the collision with Maggie Paxton, such as stopping, applying the brakes, or other methods of alerting to the impending collision;
- i. Failing to stop and render aid to Maggie Paxton after hitting her as she was in the crosswalk; and
- j. Other acts of negligence to be determined through discovery.

24. The negligence of Defendant Figueroa in operating the BMW proximately caused the death of Maggie Paxton. Accordingly, the Plaintiff brings the below listed claims for damages.

CLAIMS FOR DAMAGES

25. As a direct and proximate result of the negligence of the Defendant described above, which caused the death of Maggie Paxton, Plaintiff sets forth the below listed claims for damages on behalf of the Estate, himself, as surviving father, and the other survivor, Lisa Paxton, pursuant to Florida Statute 768.21, the Wrongful Death Act:

CLAIM OF PERSONAL REPRESENTATIVE ON BEHALF OF THE ESTATE OF MARGARET PAXTON

26. The Estate has in the past suffered and will in the future continue to suffer the following damages:

- a. Medical or funeral expenses, or both, which have been incurred due to the decedent's death that have become a charge against her estate or that were paid by or on behalf of the decedent; and
- b. Loss of prospective net accumulations of the Estate of Maggie Paxton.

WHEREFORE, the Plaintiff demands judgment against the Defendant for all damages recoverable under the laws of the State of Florida.

**CLAIM OF PERSONAL REPRESENTATIVE ON BEHALF OF
LISA PAXTON AS SURVIVING MOTHER**

27. Lisa Paxton, as surviving mother of Maggie Paxton, has in the past suffered and will in the future continue to suffer the following damages:

- a. The value of lost support and services from the date of the decedent's injury to her death, with interest, and future loss of support and services from the date of death and, to the extent of her normal life expectancy;
- b. The loss of the decedent's companionship and protection; and
- c. Mental pain and suffering.

WHEREFORE, the Plaintiff demands judgment against the Defendant for all damages recoverable under the laws of the State of Florida.

**CLAIM OF PERSONAL REPRESENTATIVE ON BEHALF OF
JAMES PAXTON AS SURVIVING FATHER**

28. James Paxton, as surviving father of Maggie Paxton, has in the past suffered and will in the future continue to suffer the following damages:

- a. The value of lost support and services from the date of the decedent's injury to her death, with interest, and future loss of support and services from the date of death and, to the extent of her normal life expectancy;
- b. The loss of the decedent's companionship and protection; and
- c. Mental pain and suffering.

WHEREFORE, the Plaintiff demands judgment against the Defendant for all damages recoverable under the laws of the State of Florida.

DEMAND FOR JURY TRIAL

29. The Plaintiff demands trial by jury on all issues triable as of right by a jury.

Dated this 24th day of February 2021.

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