

IN THE COMMON PLEAS COURT OF LUCAS COUNTY, OHIO

ROSEMARIE DAY

Individually and as next legal guardian of the  
minors, Jason, Nicole, and Justin Day  
525 Regina Parkway  
Toledo, OH 43612

Plaintiffs

v.

DANIEL LISZAK  
1020 Hawk St.  
Toledo, OH 43612

and

ZURICH INSURANCE CO.  
C/O Vince Galvin, Adjuster  
13810 First National Bank Pkwy.  
Omaha, NE 68154-8003

and

JOHN DOE I-II  
Defendants

) Case No.:

) Judge

) **COMPLAINT WITH JURY DEMAND**  
) **AND ATTACHED DISCOVERY**  
) **REQUESTS**

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The Plaintiffs, by and through counsel, allege as follows:

**FIRST CAUSE OF ACTION**

For the first claim of relief against the Defendants, the Plaintiffs state:

1. The Plaintiffs reside in Toledo, Lucas County, Ohio.
2. Defendant Daniel Lyszak resides in Toledo, Lucas County, Ohio.
3. Defendant Zurich Insurance Co. is an insurance company licensed to sell insurance in the State of Ohio, which issued a policy to Rumpf Ambulance Service, the Plaintiff's employer at the time of the accident at issue in this complaint. The policy is not attached because it is not in the Plaintiffs' possession.
4. Defendants John Doe I-II are persons or entities liable for the Plaintiffs' damages. Their names and addresses could not be discovered.
5. On or about December 27, 2005, Plaintiff Rosemarie Day was traveling southbound on I-75 in Toledo, Lucas County, Ohio, when she was struck from behind by a vehicle driven by Tracie Henney. Ms. Henney's vehicle was struck from behind by Defendant Daniel Lyszak, causing the Henney vehicle to collide with the ambulance driven by Plaintiff Day. The Toledo Police cited Mr. Lyszak for failing to maintain an assured clear distance.
6. Defendant Daniel Lyszak owed a duty of care to Plaintiff Rosemarie Day not to operate a vehicle in such a manner that may cause injury to her.
7. Defendant Daniel Lyszak breached that duty of care by operating a vehicle in a dangerous and negligent way so as to injure the Plaintiff.
8. As a direct and proximate result of Defendant Daniel Lyszak's negligence, Plaintiff Rosemarie Day sustained serious permanent personal injuries.
9. As a direct result of Defendant Daniel Lyszak's negligence, Plaintiff Rosemarie Day sustained serious personal injuries to her neck, back,

shoulders, legs, left knee, and entire body. Plaintiff Rosemarie Day was required to undergo hospital and medical care; incurred hospital and medical care costs; incurred great pain, suffering, severe mental anguish, and emotional distress. Further, the Plaintiff believes that these injuries are permanent in nature and will require future medical care; future medical care costs and she will continue to endure great pain, suffering, mental anguish, and emotional distress.

### **SECOND CAUSE OF ACTION**

For the second claim of relief against the Defendants, the Plaintiffs state:

10. The Plaintiffs incorporate by reference all of the above paragraphs as though fully restated herein.
11. Plaintiff Jason Day, a minor, is the son of Plaintiff Rosemarie Day.
12. Plaintiff Jason Day states that as a result of the negligence of the Defendant, he has been deprived of the love, affection, services, consortium and society of his mother; and that the enjoyment and quality of life and his ability to carry on the normal activities of his daily life with his mother has been impaired.

### **THIRD CAUSE OF ACTION**

For the third claim of relief against the Defendants, the Plaintiffs state:

13. Plaintiffs incorporate by reference the above paragraphs as if fully restated herein.
14. Plaintiff Nicole Day, a minor, is the daughter of Plaintiff Rosemarie Day.
15. Plaintiff Nicole Day states that as a result of the negligence of the Defendant, she has been deprived of the love, affection, services,

consortium and society of her mother; and that the enjoyment and quality of life and her ability to carry on the normal activities of her daily life with her mother has been impaired.

#### **FOURTH CAUSE OF ACTION**

For the fourth claim of relief against the Defendants, the Plaintiffs state:

16. Plaintiffs incorporate by reference the above paragraphs as if fully restated herein.
17. Plaintiff Justin Day, a minor, is the son of Plaintiff Rosemarie Day.
18. Plaintiff Justin Day states that as a result of the negligence of the Defendant, he has been deprived of the love, affection, services, consortium and society of his mother; and that the enjoyment and quality of life and his ability to carry on the normal activities of his daily life with his mother has been impaired.

#### **FIFTH CAUSE OF ACTION**

For the fifth claim of relief against the Defendants, the Plaintiffs state:

19. Plaintiffs incorporate by reference the above paragraphs as if fully restated herein.
20. The vehicle that the Plaintiff was occupying was covered under a policy of insurance issued by the Defendant Zurich Insurance Company to Rumpf Ambulance Service, the Plaintiff's employer at the time of the accident at issue in this complaint. A copy of the policy is not attached because it is not in the possession of the Plaintiff.

21. The policy of insurance issued to the Plaintiff's former employer by the Defendant Zurich Insurance Company provided underinsured and uninsured coverage as well as medical payments coverage.

**WHEREFORE,** Plaintiffs pray that judgment be entered against the Defendants as follows:

1. On the FIRST CAUSE of action a judgment against Defendants in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith.
2. On the SECOND cause of action a judgment against Defendants in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith.
3. On the THIRD cause of action a judgment against Defendants in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith.
4. On the FOURTH cause of action a judgment against Defendants in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith.

5. On the FIFTH cause of action a declaratory judgment to determine the Plaintiffs' rights and the Defendant Zurich Insurance Company's responsibility under the uninsured/underinsured motorist coverage and medical payments, together with interest, costs and reasonable attorney fees associated with this action.

Respectfully submitted,

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Charles E. Boyk  
Attorney for Plaintiffs

**JURY DEMAND**

The Plaintiffs demand a trial by jury on all issues triable by right.

By \_\_\_\_\_  
Charles E. Boyk  
Attorney for Plaintiff

**PRAECIPE**

TO THE CLERK:

Please serve summons and complaint upon the Defendants by certified mail, return receipt requested, at the addresses listed on the caption.

Please serve Defendant John Doe personally with summons (indicating “name unknown”) and complaint.

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Charles E. Boyk  
Attorney for Plaintiff