

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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MELISSA MCMINDES  
2836 George Urban  
Depew, New York 14043

Plaintiff,

- vs -

TARA WASIK  
1310 Indian Church  
West Seneca, New York 14224

Defendant.

**SUMMONS**

**IMMEDIATELY TURN THESE  
PAPERS OVER TO YOUR  
INSURANCE REPRESENTATIVE.  
YOUR FAILURE TO DO THIS  
MAY SUBJECT YOU TO PERSONAL  
FINANCIAL RESPONSIBILITY IN  
THIS MATTER.**

Index No.: \_\_\_\_\_

Date Filed: \_\_\_\_\_

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**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED** to Answer the Complaint in this action, and to serve a copy of your Answer, or, if the Summons is not served with a Complaint, to serve a Notice of Appearance, on the Plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service, or within 30 days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear, or Answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

**COMPLAINT ENDORSEMENT:** That Plaintiff's Complaint against you is in the amount of: see **WHEREFORE** clauses of Plaintiff's Complaint, together with the costs of this action based on a cause of action for negligence and others.

Erie County is designated as the place of trial on basis of residence of the parties who reside in Erie County, New York and the location of the incident.

DATED: November 11, 2020  
Buffalo, New York

  
\_\_\_\_\_  
Joseph A. Todoro, Esq.  
SPADAFORA & VERRASTRO, LLP  
*Attorneys for Plaintiff*  
2 Symphony Circle  
Buffalo, New York 14201  
(716) 854-1111

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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MELISSA MCMINDES,

Plaintiff,

- vs -

TARA WASIK,

Defendant.

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**COMPLAINT**

Index No.: \_\_\_\_\_

Date Filed: \_\_\_\_\_

The Plaintiff, MELISSA MCMINDES, for her causes of action against the Defendant, above referred, herein alleges:

1. As to any time limitations relating to the commencement of this matter and all claims included herein, set forth by and/or under any law, statute, rule, regulation and/or requirement otherwise applicable as to this matter and all claims set forth herein, the same have been tolled pursuant to any/all pertinent provisions of the New York Civil Practice Law and Rules (CPLR), and/or as a direct result of the onset of coronavirus and the COVID-19 pandemic, by executive orders and/or proclamations of the Hon. Andrew M. Cuomo, Governor of the state of New York.

2. As to any time limitations relating to the filing of this matter, set forth by and/or under any law, statute, rule, regulation and/or requirement otherwise applicable as to this matter and all claims set forth herein, the same have been tolled pursuant to any/all pertinent provisions of the New York Civil Practice Law and Rules (CPLR), and/or as a direct result of the onset of coronavirus and the COVID-19 pandemic, by executive orders and/or proclamations of the Hon. Andrew M. Cuomo, Governor of the state of New York.

3. As to any time limitations relating to the filing of this matter, set forth by and/or under any law, statute, rule, regulation and/or requirement otherwise applicable as to this matter and all claims set forth herein, the same have been tolled pursuant to any/all pertinent provisions of the New York Civil Practice Law and Rules (CPLR), and/or as a direct result of the onset of coronavirus and the COVID-19 pandemic, by specific administrative orders and/or directives of the Office of Court Administration, and/or pertinent orders and/or directives of the Administrative Judges of the State of New York, Fourth Department and/or County of Monroe.

4. That each and every cause of action set forth herein falls within one or more of the exceptions set forth in CPLR 1602.

5. That the Plaintiff, MELISSA MCMINDES, hereinafter referred to as "Plaintiff", was at all times hereinafter mentioned a resident of the County of Erie and the State of New York.

6. That on or about November 13, 2017, the Defendant, TARA WASIK, hereinafter referred to as "Defendant", was and continues to be a resident of the County of Erie and the State of New York.

7. That on or about November 13, 2017, Plaintiff, was legally and lawfully operating her motor vehicle on William Street at or near its intersection with Bailey Avenue in the City of Buffalo, County of Erie and State of New York.

8. That William Street at or near its intersection with Bailey Avenue in the City of Buffalo, the County of Erie, and the State of New York, was utilized by said residents of the City of Buffalo, County of Erie and the State of New York, and others, for the purpose of vehicular transportation.

9. That on or about November 13, 2017, the Defendant was the owner and/or registrant and/or operator of a motor vehicle registered in her own name.

10. That on or about November 13, 2017, the Plaintiff was the operator of a motor vehicle bearing New York State License Registration for the year 2017.

11. That on or about November 13, 2017, the Defendant was the owner and/or operator of a motor vehicle bearing New York State License Registration for the year 2017.

12. That on or about November 13, 2017, the Defendant was operating a motor vehicle registered in her own name.

13. That on or about November 13, 2017, the Defendant, negligently, carelessly and/or with reckless disregard for the safety of others, operated her motor vehicle on, over and along William Street at or near its intersection with Bailey Avenue in the City of Buffalo, County of Erie and the State of New York, so as to cause and/or allow the same to strike, make contact with and/or collide with the automobile the Plaintiff was operating, which were substantial factors and proximate cause which resulted in the crash and collision and injuries sustained by the Plaintiff.

14. That on or about November 13, 2017, presently and/or at all times hereinafter mentioned, Defendant, provided license and registration information to the Police Officer investigating the crash that identified her as Tara Wasik, with a home address of 1310 Indian Church Road, West Seneca, New York 14224.

15. That the aforesaid crash and collision was caused wholly and solely as a result of the negligent, careless and/or reckless disregard for the safety of others in which the Defendant operated, maintained, managed and/or controlled her motor vehicle and/or the negligent, careless and/or reckless disregard for the safety of others in which the Defendant maintained and/or serviced and/or inspected said motor vehicle which were substantial factors and a proximate cause which resulted in the crash and collision and injuries sustained by the Plaintiff.

16. That the aforesaid crash and collision was caused through no fault of the Plaintiff in any respect.

17. Plaintiff is not seeking reimbursement for plan expenses otherwise covered by insurance, which would be precluded by and/or subject to the provisions of New York GOL 5-335, or any other applicable provisions of New York State Law and/or Federal Law, Rule or Regulation. Plaintiff's claim does not seek recovery in connection with any potential subrogation rights of any plans, individuals, corporations, insurance carriers or other entities, which would be precluded by and/or subject to the provisions of New York GOL 5-335, or any other applicable provisions of New York State Law and/or Federal Law, Rule or Regulation.

18. That wholly and solely as a result of the negligent, careless and/or reckless conduct, acts and/or omissions, of the Defendant, Plaintiff has been caused to suffer and sustain "serious injuries" as the same are defined in 5102 (d) of the Insurance Law of the State of New York, as amended, has sustained non-economic loss as defined in 5102 (c) of the Insurance Law of the State of New York, as amended; has been caused to suffer and sustain personal injuries; shock to the nerves and/or nervous systems; depression and emotional upset; in to and about the body, some and/or all of which are permanent in nature; and has been or may be caused to suffer loss in excess of basic economic loss, as defined in 5102 (a) of the Insurance Law of the State of New York, as amended, all to Plaintiff's damage in an amount which exceeds the jurisdictional limits of all courts lower than Supreme Court.

**AS AND FOR A SECOND CAUSE OF ACTION, PLAINTIFF ALLEGES:**

19. That the Plaintiff repeats and re-alleges each and every allegation contained in paragraphs marked "1" through "18, inclusive, of this Complaint, as if herein fully set forth and fully re-alleged.

20. That on or about November 13, 2017, Defendant, was operating her motor vehicle in a negligent and careless manner, and/or with reckless disregard for the safety of others, and/or in violation of the Vehicle and Traffic Laws of the State of New York, and her acts and/or omissions, were a substantial factor and/or proximate cause of the crash and/or collision, and injuries sustained by the Plaintiff.



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