

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

SCHON T. TELL,	)	Case No. 17CV09791
	)	
Plaintiff,	)	<b>FIRST AMENDED COMPLAINT</b>
	)	(Negligence/Negligence Per Se)
v.	)	
	)	Damages in the amount of \$75,000.00; filing
DIANE CASTILLO,	)	fee per ORS §21.160(1)(c)
	)	
Defendant.	)	<b>NOT SUBJECT TO MANDATORY</b>
_____	)	<b>ARBITRATION</b>

**COMPLAINT**

Plaintiff, Schon T. Tell (hereafter “Plaintiff”) through counsel, alleges as follows:

1.

On or about March 11, 2015, in Multnomah County, Oregon, Plaintiff was injured in a collision due directly to negligence of Defendant Diane Castillo (hereafter “Defendant”; also known as Diane C. Castillo-White or Diane White) when Defendant opened her car door directly in the path of the streetcar Plaintiff was as a passenger on. This caused a sudden jolt.

2.

Plaintiff is an adult resident of Multnomah County, Oregon. Venue is proper, as the location of the subject incident described above.

3.

On information and belief, Defendant is an adult resident of Multnomah County,

1 Oregon.

2 4.

3 On or about March 11, 2015, Defendant was parked on 10<sup>th</sup> Street in Portland, Oregon,  
4 when she opened her car door directly into the path of a Portland Streetcar that was northbound  
5 along 10<sup>th</sup> Street near Yamhill Street. The operator of the streetcar was unable to avoid a  
6 collision with the door.

7 5.

8 At the same time, Plaintiff was a passenger on the Portland Streetcar on March 11,  
9 2015, that was heading north along 10<sup>th</sup> Street near Yamhill Street. The streetcar in which  
10 Plaintiff was riding then struck the car door of Defendant, causing the streetcar to jolt and  
11 injuring Plaintiff.

12 6.

13 The subject collision as described in paragraphs 4 through 5 above was solely the result  
14 of Defendant's negligence and illegal actions.

15 7.

16 Defendant failed to abide by the expectations of the community, which exposed  
17 Plaintiff to an unreasonable risk of harm. As a direct result of these breaches of duty and the  
18 behavior by Defendant, Plaintiff suffered serious, lasting injuries to his person, including  
19 substantial pain to his neck. He also suffered emotional distress and mental anguish.

20 8.

21 As a direct result of the above described Incident, Plaintiff has incurred and will  
22 continue to incur substantial costs for doctors and health care providers, medications, medical  
23 transportation, medical imaging, examinations, evaluations, and treatments. All of these  
24 medical expenses were, and are, reasonable and necessary. He has suffered interference with  
25 his normal and usual activities, plus the loss of care, comfort, companionship and society, and

1 isolation. He also may lose income in the future. This was all to his economic detriment and  
2 resulted in economic damages in an amount to be determined by the jury to fairly and justly  
3 compensate him in accordance with Oregon law, not to exceed \$25,000.

4 9.

5 As a direct result of the above-described incident, Plaintiff sustained injuries that  
6 caused him neck and head pain. Plaintiff is, therefore, entitled to non-economic damages in the  
7 amount which a jury determines to be reasonable, but not to exceed \$50,000.

8 10.

9 Plaintiff reserves the right to amend this complaint pursuant to ORS §31.725.

10  
11 **FIRST CLAIM FOR RELIEF**

12 (Negligence)

13 11.

14 Plaintiff re-alleges paragraphs 1-10 above as though fully set forth herein.

15 12.

16 Defendant owed Plaintiff a duty to operate her vehicle in a reasonable and safe manner,  
17 including keeping a proper lookout before opening her door.

18 13.

19 Defendant breached that duty by opening her door directly into the path of the  
20 approaching street car, as well as failing to look before opening her door into the path of the  
21 streetcar

22 14.

23 As a direct and foreseeable result of Defendant's conduct, Plaintiff sustained bodily  
24 injuries and other damages as described above in paragraphs 7 through 9.

1 **SECOND CLAIM FOR RELIEF**

2 (Negligence Per Se)

3 15.

4 Plaintiff re-alleges paragraphs 1 through 14 above as though fully set forth herein.

5 16.

6 In opening her door directly into the path of the streetcar, Defendant's acts caused the  
7 accident, and violated the below-cited Oregon Statutes, which constitute negligence per se:

8 a. Improper opening or leaving open of vehicle door (ORS §811.490).

9 17.

10 Plaintiff, as a person directly injured by the collision, was a member of the class  
11 intended to be protected by such laws, and the harms suffered were of the type and kind such  
12 laws were intended to protect against.

13 18.

14 As a direct and foreseeable result of Defendant's conduct, Plaintiff sustained bodily  
15 injuries and other damages as described above in paragraphs 7 through 9.

16  
17 **DEMAND FOR JURY TRIAL**

18 19.

19 Plaintiff hereby demands a jury trial on all issues.

20  
21 **PRAYER FOR RELIEF**

22 20.

23 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

24 a) Economic damages in the amount to be determined by the jury to fairly  
25 compensate Plaintiff for past and future medical expenses in accordance with

1 Oregon law, and not to exceed \$25,000;

2 b) Non-economic damages in the amount to be determined by the jury to fairly  
3 compensate Plaintiff for pain and suffering in accordance with Oregon law, and  
4 not to exceed \$50,000;

5 c) Plaintiff 's costs and disbursements incurred herein;

6 d) Other relief as the Court deems just and equitable.

7  
8 Dated: March 9, 2017

Respectfully submitted,

9  
10 **STEVENS & LEGAL, LLC**

11 /s/ Michael O. Stevens  
12 Michael O. Stevens, OSB No. 095198  
13 Attorney for Plaintiff

14 Trial Attorney:  
15 Michael O. Stevens, OSB No. 095198

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing FIRST AMENDED COMPLAINT to the following persons or entities:

Multnomah County Circuit Court  
Via E-File

No other parties have appeared

Service was completed as follows:

<input type="checkbox"/>	Via United States Postal Services by mailing them at the addresses listed above for each person or entity a true copy sealed in a postage-prepaid envelope and deposited in the United States mail at Hillsboro, Oregon.
<input checked="" type="checkbox"/>	Via electronic mail at the addresses listed above for each person or entity.
<input type="checkbox"/>	Via personal delivery at the addresses listed above for each person or entity.
<input type="checkbox"/>	Via facsimile at the numbers listed above for each person or entity.
<input type="checkbox"/>	Via overnight delivery at the addresses listed above for each person or entity utilizing the services of the United Parcel Service.

DATED: March 9, 2017.

By:   
Michael O. Stevens, OSB No. 095198  
Telephone: 971-533-6178  
Facsimile: 971-228-2608  
Michael@HillsboroFirm.com