

682807 NO. 990,429

ISSUE

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|--|---|---------------------------|
| PROGRESSIVE COUNTY MUTUAL INSURANCE COMPANY          | § | IN THE COUNTY CIVIL COURT |
|  | § |                           |
|  | § |                           |
| VS.  | § | AT LAW NO. ONE (1)        |
|  | § |                           |
| RUBEN PERALES and MCLARENS YOUNG INTERNATIONAL, INC. | § | HARRIS COUNTY, TEXAS      |

**PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, your Plaintiff, PROGRESSIVE COUNTY MUTUAL INSURANCE COMPANY, complaining of RUBEN PERALES and ALLEGIANCE CRANE & EQUIPMENT, LLC, Defendants, and for cause of action would show this Honorable Court as follows:

I.

Plaintiff intends this to be a level I case.

II.

Plaintiff is an insurance company lawfully conducting business in the State of Texas.

Defendant, RUBEN PERALES, is an individual residing in Bexar County, Texas and may be served with process at 10411 Moursund Boulevard, San Antonio, Bexar County, Texas 78221.

Defendant, ALLEGIANCE CRANE & EQUIPMENT, LLC, is a corporation doing business in the State of Texas and may be served with process by serving its Registered Agent, Capitol Corporate Services, Inc., at 800 Brazos, Suite 400, Austin, Travis County, Texas 78701.

III.

Plaintiff has an interest in the matter in controversy in that Plaintiff, PROGRESSIVE COUNTY MUTUAL INSURANCE COMPANY was the automobile insurance carrier for Patricia Gutierrez at the time of this loss, which is more specifically set out below. As a result of the incident

2011-06-03

outlined below, Plaintiff paid insurance benefits to or on behalf of Patricia Gutierrez, and now seeks subrogation rights in association therewith.

IV.

On or about December 11, 2009, Patricia Gutierrez was operating her 2003 Ford Expedition on Richey Street in Pasadena, Harris County, Texas. While being so operated, said vehicle was violently and unexpectedly struck by a vehicle driven by Defendant driver, RUBEN PERALES.

V.

The occurrence made the basis of this suit, referred to in paragraph IV. and the resulting damages were proximately caused by the negligent conduct of the Defendant driver in one or more of the following respects:

- a) In failing to keep such a look out as a person of ordinary prudence would have kept under the same or similar circumstances;
- b) In failing to timely apply the brakes to his vehicle in order to avoid the collision in question;
- c) In failing to apply the brakes to his vehicle in order to avoid the collision in question;
- d) In driving his vehicle at a rate of speed which was greater than that which an ordinarily prudent person would have driven under the same or similar circumstances;
- e) In failing to turn his vehicle in an effort to avoid the collision in question; and
- f) In failing to control the speed of his vehicle in an effort to avoid the collision in question.

Each of these acts and omissions, singularly or in combination with others, constituted negligence which proximately caused the occurrence which made the basis of this action and Plaintiff's damages.

VI.

Defendant owner, ALLEGIANCE CRANE & EQUIPMENT, LLC, was negligent in that

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he/she entrusted its vehicle to Defendant driver at a time when it knew, or should have known, that Defendant driver was an incompetent driver of motor vehicles, or, in the alternative, Defendant driver was an agent, and/or employee of Defendant owner and acting in the course and scope of such agency and/or employment at the time of said accident.

VII.

As a result of the negligence of the Defendants, Patricia Gutierrez's 2003 Ford Expedition was totally destroyed. The difference in the fair market value of said vehicle immediately before said collision as compared to its fair market value following said collision was Eleven Thousand Three Hundred Eighty-Five and 82/100 Dollars (\$11,385.82), all to Plaintiff's damages in that sum.

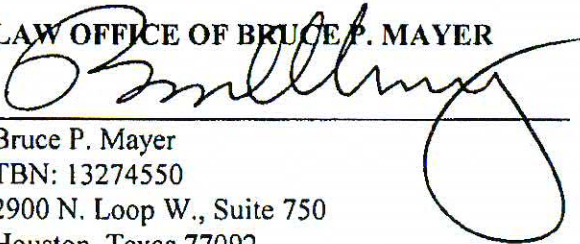
WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer, and that on final trial Plaintiff have:

1. Judgment against Defendants, jointly and severally, for Eleven Thousand Three Hundred Eighty-Five and 82/100 Dollars (\$11,385.82), with post-judgment interest at the legal rate;
2. Costs of suit; and
3. Such other and further relief, both general and special, legal and equitable, to which Plaintiff may be justly entitled.

Respectfully submitted,

LAW OFFICE OF BRUCE P. MAYER

By:

  
Bruce P. Mayer  
TBN: 13274550  
2900 N. Loop W., Suite 750  
Houston, Texas 77092  
713-864-1365 Phone  
713-864-9272 Fax

ATTORNEY FOR PLAINTIFF  
PROGRESSIVE COUNTY MUTUAL INSURANCE  
COMPANY

FILED

2011 JUN 17 AM 8:49

*Stan Stewart*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

NO. 990,429

PROGRESSIVE COUNTY MUTUAL  
INSURANCE COMPANY

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IN THE COUNTY CIVIL COURT

VS.

AT LAW NO. ONE (1)

RUBEN PERALES and MCLARENS  
YOUNG INTERNATIONAL, INC.

HARRIS COUNTY, TEXAS

**REQUEST FOR DISCLOSURE**

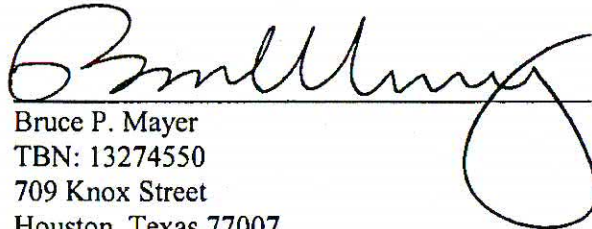
TO: Defendant, RUBEN PERALES.

Pursuant to Rule 194, you are requested to disclose, within fifty-one days of service of this request, the information or material described in Rule 194.2(a), (b), (c), (d), (e), (f), (g), (h) and (i).

Respectfully submitted,

**LAW OFFICE OF BRUCE P. MAYER**

By:



Bruce P. Mayer  
TBN: 13274550  
709 Knox Street  
Houston, Texas 77007  
713-864-1365 Phone  
713-864-9272 Fax

ATTORNEY FOR PLAINTIFF  
PROGRESSIVE COUNTY MUTUAL INSURANCE  
COMPANY

798-89-175

NO. 990,429

PROGRESSIVE COUNTY MUTUAL  
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VS.

RUBEN PERALES and MCLARENS  
YOUNG INTERNATIONAL, INC.

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HARRIS COUNTY, TEXAS

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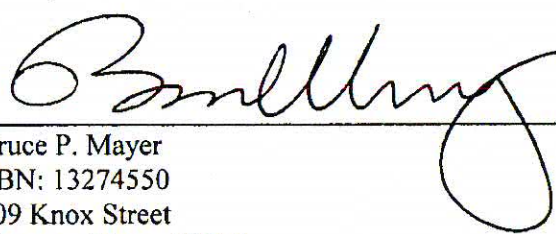
TO: Defendant, ALLEGIANCE CRANE & EQUIPMENT, LLC.

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Respectfully submitted,

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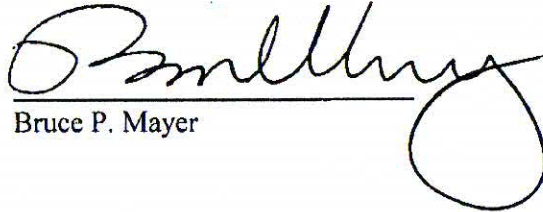
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AT LAW NO. ONE (1)

HARRIS COUNTY, TEXAS

CERTIFICATE OF SERVICE

I hereby certify that on the 14<sup>th</sup> day of June, 2011, a true and correct copy of Plaintiff's First Amended Original Petition will be sent to all counsel of record and/or Pro Se parties via certified mail, return receipt requested or via facsimile and regular mail.

  
Bruce P. Mayer

798-89-1752