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~~CONFIDENTIAL~~

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LEGAL PROCESS #11

TR# 155761 CLK R. MUSHNER
6/7/00 08:20:27 CSE 196.30

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

MARK BIXBY and HEIDI BIXBY,

Plaintiff,

NO:

00AS03050

vs.

COMPLAINT

BARBARA G. MORGAN, and
DOE I through DOE X, inclusive,

(PERSONAL INJURY -
MOTOR VEHICLE)

Defendants. _____ /

Plaintiff MARK BIXBY complains of defendants, and each of them, and for a First Cause of Action, alleges as follows:

FIRST CAUSE OF ACTION

I

The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants DOE I through DOE X, inclusive, are unknown to plaintiff who therefore sues such individuals by such fictitious names, and plaintiff will amend his complaint to show their true names and capacities when the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each of the defendants, DOE I through DOE X, inclusive, are responsible in some manner, negligently, in warranty, strictly, or otherwise, for the events and happenings herein referred to and proximately thereby caused injuries and damages to plaintiff as herein alleged.

I

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1 II

2 That plaintiff is now and at all times herein mentioned was a citizen of and resident
3 within the State of California, and defendants are now, and at all times herein mentioned were
4 citizens of and residents within the State of California, and the amount in controversy is in excess
5 of the jurisdictional minimum of this court.

6 III

7 That at all times herein mentioned, each of the defendants was the agent, employee,
8 principal or employer of each of the remaining defendants and was at all times relevant acting
9 within the course and scope of said relationships and each defendant has authorized, ratified and
10 approved the acts of each of the remaining defendants.

11 IV

12 Plaintiff is informed and believes and thereon alleges that at all times herein
13 mentioned, defendants BARBARA G. MORGAN, DOE III, DOE IV, and DOE V, and each of
14 them, were the owners of the motor vehicle referred to in this complaint.

15 V

16 Plaintiff is informed and believes, and thereon alleges that at all times herein
17 mentioned, defendants BARBARA G. MORGAN, DOE I and DOE II, and each of them, were
18 operating and driving the aforesaid motor vehicle with the knowledge, consent and permission of
19 defendants BARBARA G. MORGAN, DOE III, DOE IV, and DOE V, and each of them.

20 VI

21 That on or about the 4th day of January, 2000, at approximately 10:45 a.m., of said
22 day, plaintiff was operating and driving an automobile in a generally westerly direction along
23 and upon Highway 50 at or near Mather Field Road, in the County of Sacramento, State of
24 California.

25 VII

26 That at the time and place aforementioned, the defendants BARBARA G.
27 MORGAN, DOE I and DOE II, were operating and driving said motor vehicle in a generally

28 //

1 westerly direction along and upon Highway 50 at or near Mather Field Road, in the County of
2 Sacramento, State of California.

3 VIII

4 That at said time and place, defendants, and each of them, negligently entrusted,
5 managed, maintained, drove, operated, repaired, manufactured, and designed said motor vehicle
6 along and upon said highway so as to proximately cause said motor vehicle to collide with the
7 automobile that plaintiff was driving, thereby directly and proximately causing the hereinafter
8 described injuries and damages to plaintiff.

9 IX

10 As a proximate result of the negligence of defendants, and each of them, plaintiff was
11 hurt and injured in his health, strength and activity, sustaining injury to his body, and shock and
12 injury to his nervous system and person, all of which injuries have caused and continue to cause
13 plaintiff great mental, physical and nervous pain and suffering. Plaintiff is informed and
14 believes, and thereon alleges, that said injuries will result in some permanent disability to
15 plaintiff, all to his general damage in an amount in excess of the jurisdictional minimum of this
16 court.

17 X

18 As a further proximate result of the said negligence of the defendants, and each of
19 them, plaintiff was required to and did employ physicians and surgeons to examine, treat and
20 care for plaintiff, and did incur medical and incidental expenses. The exact amount of such
21 expense is unknown to plaintiff at this time and plaintiff will ask leave to amend this pleading to
22 set forth the exact amount thereof when the same is ascertained by plaintiff, or in accordance
23 with proof at time of trial.

24 XI

25 As a further proximate result of the said negligence of the defendants, and each of
26 them, plaintiff was prevented from attending to plaintiff's usual occupation, and plaintiff is
27 informed and believes and thereon alleges that plaintiff will thereby be prevented from attending
28 to said usual occupation for a period of time in the future, all to plaintiff's damage in an amount

1 which is not now known. Plaintiff will ask leave to amend plaintiff's pleading to set forth the
2 exact amount thereof when the same is ascertained by plaintiff, or in accordance with proof at
3 time of trial.

4 XII

5 As a further proximate result of the negligence of Defendants, and each of them,
6 Plaintiff is entitled to prejudgment interest from the date he first files his offer to compromise
7 pursuant to CCP 998.

8 WHEREFORE, Plaintiff MARK BIXBY prays judgment against Defendants, and
9 each of them, as follows:

- 10 1. For general damages in excess of the jurisdictional minimum of this court;
- 11 2. For medical and incidental expenses according to proof;
- 12 3. For loss of income according to proof;
- 13 4. For prejudgment interest pursuant to CCP 998;
- 14 5. For costs of suit; and
- 15 6. For such other and further relief as the Court deems proper.

16 Plaintiff HEIDI BIXBY complains of defendants, and each of them, and for a Second
17 Cause of Action, alleges as follows:

18 SECOND CAUSE OF ACTION

19 I

20 Plaintiff incorporates by reference, each and every allegation of the First Cause of
21 Action as if set forth at length herein.

22 II

23 That at all times herein mentioned, MARK BIXBY and HEIDI BIXBY were, and
24 now are, husband and wife.

25 III

26 As a direct and proximate result of the said negligence and carelessness of the
27 defendants, and each of them, plaintiff HEIDI BIXBY has been deprived of the services and
28 consortium of her husband by reason of his inability to carry on his usual duties. Plaintiff is

1 informed and believes and on such information and belief alleges that said injuries to her
2 husband are of a permanent nature, and that plaintiff will be deprived of his services, love,
3 affection, comfort, care, and society for a substantial period in the future, all to plaintiff's further
4 damage in excess of the jurisdictional minimum of this court, and any and all prejudgment
5 interest from the date of said injuries.

6 WHEREFORE, plaintiff HEIDI BIXBY prays for judgment against the defendants,
7 and each of them, for:

- 8 1. General damages in excess of the jurisdictional minimum of this court;
- 9 2. Prejudgment interest on the general and special damages;
- 10 3. Costs of suit; and
- 11 4. Such other and further relief as the Court deems just and proper.

12 DATED: May 31, 2000

13 TIMMONS, OWEN & OWEN, INC.

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15 By 

16 ALLAN J. OWEN
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