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

**CYNTHIA LEWELLEN,**

**Plaintiff**

**v.**

**MATRIX SERVICE INC., an Oklahoma Corporation, JUAN CARLOS GARCIA, NESS & CAMPBELL CRANE, INC., an Oregon Corporation, and JEFFREY LOVELADY.**

**Defendants.**

**Case No.**

**COMPLAINT – PERSONAL INJURY  
(Negligence, Negligence *Per Se*)**

**FILING FEE \$531 PER ORS  
21.160(1)(c).**

**NOT SUBJECT TO MANDATORY  
ARBITRATION**

**JURY TRIAL REQUESTED**

**TOTAL PRAYER: \$670,201.84**

Plaintiff alleges:

1.

At all material times plaintiff was an Oregon resident, residing in Portland,

Oregon.

///

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1 2.

2 At all material times, defendant Matrix Service Inc. was an Oklahoma corporation  
3 authorized to do business in Oregon.

4 3.

5 At all material times, defendant Juan Carlos Garcia was a California resident.  
6 4.

7 At all material times, defendant Ness & Campbell Crane, Inc. was an Oregon  
8 corporation with a principal place of business in Multnomah County, Oregon.

9 5.

10 At all material times, defendant Jeffrey Lovelady was an Oregon resident residing  
11 in Multnomah County, Oregon.

12 6.

13 At all material times defendant Juan Carlos Garcia was operating in the course  
14 and scope of his employment with defendant Matrix Services, Inc. and was operating a  
15 motor vehicle owned by defendant Matrix Services Inc.

16 7.

17 At all material times defendant Jeffrey Lovelady was operating in the course and  
18 scope of his employment with defendant Ness & Campbell Crane, Inc., and was  
19 operating a motor vehicle owned by defendant Ness & Campbell Crane, Inc.

20 8

21 At all material times, NW St. Helens Rd was a paved public road running  
22 generally northwest and southeast in the county of Multnomah, Oregon.

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1 **FIRST CLAIM FOR RELIEF – NEGLIGENCE AGAINST DEFENDANT JUAN CARLOS**

2 **GARCIA**

3 9.

4 On or about November 5, 2014, at approximately 8:48 a.m., plaintiff was riding  
5 her bicycle southeast bound in the bicycle lane portion of NW St. Helens Road.

6 10.

7 At that time and place defendant Juan Carlos Garcia was operating a motor  
8 vehicle northwest bound on NW St. Helens Road, and entered the middle turn lane in  
9 order to turn left into the parking lot of United Rentals located at 4621 NW St. Helens  
10 Road, Portland, Oregon. As defendant Juan Carlos Garcia was in the middle turn lane,  
11 defendant Jeffrey Lovelady indicated with his hands that defendant Juan Carlos Garcia  
12 could make his turn in front of the motor vehicle defendant Jeffrey Lovelady was driving.  
13 Defendant Juan Carlos Garcia made the left turn directly in front of plaintiff's path of  
14 travel in the bicycle lane, causing a collision.

15 11.

16 At that time and place defendant Juan Carlos Garcia was negligent in one or  
17 more of the following particulars:

- 18 1. In failing to keep a proper lookout;
- 19 2. In failing to maintain a safe speed for the conditions,
- 20 3. In failing to maintain proper control over his vehicle; and
- 21 4. In failing to yield the right of way to plaintiff.

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23 ///

24 ///

1 **SECOND CLAIM FOR RELIEF – NEGLIGENCE PER SE AGAINST DEFENDANT**

2 **JUAN CARLOS GARCIA**

3 12.

4 Plaintiff realleges paragraphs 1-10 and further alleges:

5 13.

6 At all material times the following legislative enactments were in existence for the  
7 protection of the general public, including plaintiff:

8 **ORS § 811.050 Failure to yield to rider on bicycle lane**

9 (1) A person commits the offense of failure of a motor vehicle operator to yield  
10 to a rider on a bicycle lane if the person is operating a motor vehicle and  
11 the person does not yield the right of way to a person operating a bicycle,  
12 electric assisted bicycle, electric personal assistive mobility device, moped,  
13 motor assisted scooter or motorized wheelchair upon a bicycle lane.

14 . . .

15 **ORS § 811.350 Dangerous left turn**

16 (1) A person commits the offense of making a dangerous left turn if the person:

17 (a) Is operating a vehicle;

18 (b) Intends to turn the vehicle to the left within an intersection or into an  
19 alley, private road, driveway or place from a highway; and

20 (c) Does not yield the right of way to a vehicle approaching from the  
21 opposite direction that is within the intersection or so close as to constitute  
22 an immediate hazard.

23 . . .

24 ///

1 14.

2 Defendant Juan Carlos Garcia failed to comply with the aforementioned  
3 requirements of the Oregon Vehicle Code and was, therefore, negligent as a matter of  
4 law.

5 **THIRD CLAIM FOR RELIEF – NEGLIGENCE AGAINST DEFENDANT JEFFREY**  
6 **LOVELADY**

7 15.

8 At that time and place defendant Jeffrey Lovelady was negligent in one or more of  
9 the following particulars:

- 10 1. In failing to keep a proper lookout; and  
11 2. In waving to defendant Juan Carlos Garcia to make the turn when he knew  
12 or should have known that the turn could not be made safely at that time  
13 and place due to other traffic.

14 16.

15 Defendant Juan Carlos Garcia's and defendant Jeffrey Lovelady's negligence  
16 was a substantial factor in causing plaintiff's injuries, including a pelvic fracture, scapular  
17 fracture, rib fractures, sacral fracture, coccyx fracture, lung contusions, cardiac and  
18 pulmonary arrest, abrasions, contusions, and soft tissue injuries.

19 17.

20 As a result of defendant Juan Carlos Garcia's and defendant Jeffrey Lovelady's  
21 negligence, plaintiff has incurred reasonable and necessary medical expenses of  
22 \$129,146.39.

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18.

As a result of defendant Juan Carlos Garcia's and defendant Jeffrey Lovelady's negligence, plaintiff incurred lost wages in the amount of \$29,700.

19.

As a result of defendant Juan Carlos Garcia's and defendant Jeffrey Lovelady's negligence, plaintiff has incurred property damage in the amount of \$11,355.45.

20.

As a result of defendant Juan Carlos Garcia's Juan Carlos Garcia's and defendant Jeffrey Lovelady's negligence, plaintiff has suffered and will continue to suffer pain and suffering with interference and disruption to her life in the amount of \$500,000.00.

WHEREFORE, plaintiff prays for relief as follows:

- a. Economic damages in the amount of \$170,201.84;
- b. Non-economic damages in the amount of \$500,000.00; and
- c. Costs and disbursements incurred herein.

Dated this 22<sup>nd</sup> day of July, 2015.

**SWANSON, THOMAS, COON & NEWTON**  
Attorneys for Plaintiff

/s/ Raymond F. Thomas  
Raymond F. Thomas, OSB# 794160  
rthomas@stc-law.com

/s/ Charley B. Gee  
Charley B. Gee, OSB# 111014  
cgee@stc-law.com

Trial Attorney: Raymond F. Thomas