

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

1. JARROD PROCTOR and)
2. GWENDOLYN PROCTOR,)

Plaintiffs,)

Case No. 21-CV-307-SPS

vs.)

1. THE UNITED STATES OF AMERICA,)
2. UNITED STATES DEPARTMENT OF)
INTERIOR, and 3. BUREAU OF INDIAN)
AFFAIRS,)

Defendants.)

COMPLAINT

COME NOW Plaintiffs, Jarrod Proctor and Gwendolyn Proctor and for their Causes of Action against Defendants, The United States of America, United States Department of Interior, and Bureau of Indian Affairs, allege and state as follows:

First Cause of Action

1. This lawsuit is a civil lawsuit and the amount in controversy exceeds the statutory minimum prescribed in 28 USCA § 1332(a) of \$75,000.00. Plaintiffs, Jarrod Proctor and Gwendolyn Proctor are domiciled in and citizens and residents of the State of Oklahoma.

2. The accident involved herein occurred in Cherokee County, Oklahoma within the Eastern District of Oklahoma. This lawsuit is brought in the Eastern District of Oklahoma based upon complete diversity of citizenship between Plaintiffs and Defendants.

3. On the 14th day of December, 2019, Plaintiff Gwendolyn Proctor was

driving her 2009 Pontiac GGT Southbound on Stick Ross Mountain Road through a four way stop at the intersection with the Highway 51 spur. Plaintiff, Gwendolyn Proctor had a green light and was struck on the passenger side front door (T-Boned) by a Cherokee Nation Marshal vehicle driven by Buddy Lee Clinton, Jr. which was driving at a high rate of speed. Plaintiff, Gwendolyn Proctor and her passenger, Plaintiff Jarrod Proctor, were injured, Defendant Jarrod Proctor having to be extracted using the jaws of life and transported by Cherokee Nation EMS to Northeastern Healthcare Hospital. The impact was severe, and airbags deployed in both vehicles. Buddy Lee Clinton was driving in the course and scope of his employment with the Bureau of Indian Affairs.

4. At all times pertinent to this lawsuit Buddy Lee Clinton was an employee and agent of the Defendant Bureau of Indian Affairs with permission to be driving the subject vehicle, and Buddy Lee Clinton was within the scope of his employment with the Bureau of Indian Affairs, 600 N Milt Phillips Avenue, Seminole, OK 74868. Defendants are vicariously liable for the acts of Buddy Lee Clinton.

5. Pursuant to 28 U.S.C. § 2675, Plaintiffs presented a standard Form 95 to the Indian Affairs Bureau, 600 N. Milt Phillips Avenue, Seminole, OK 74868 on or about April 15, 2021.

6. Six (6) months have passed since the Federal Tort Notice was provided to the Bureau of Indian Affairs.

7. Regulation requires the receiving agency must transfer the claim forthwith to the appropriate agency and notify the claimant of the transfer 28 C.F.R. § 14.2(b)(1) if the notice provided in Paragraph 6 was to the wrong agency.

8. Plaintiffs have presented a Federal Tort Claim and Defendants have

responded on June 24, 2021, denying said claim.

9. Defendants' negligence consists of the vicarious liability of their employee, Buddy Lee Clinton.

10. Defendants were negligent and vicariously liable in the following ways:

- A. Failure to keep a careful lookout;
- B. Failure to drive the proper speed;
- C. Failure to yield;
- D. Negligence per se.

COUNT II

11. As a direct and proximate result of Defendant's negligence, and/or violation of the laws of the State of Oklahoma, Plaintiff, Gwendolyn Proctor has suffered personal bodily injuries which will include past and future medical expenses, past and future physical and mental pain and suffering and inability to lead a normal life, past and future loss of enjoyment of life, past, present and future loss of earnings and earning capacity. Plaintiff, Gwendolyn Proctor suffered great injuries including, but not limited to, her neck, left shoulder and back which will require surgery.

COUNT III

12. As a direct and proximate result of Defendant's negligence, and/or violation of the laws of the State of Oklahoma, Plaintiff, Jarrod Proctor has suffered personal bodily injuries which will include past and future medical expenses, past and future physical and mental pain and suffering and inability to lead a normal life, past and future loss of enjoyment of life, past, present and future loss of earnings and

earning capacity. Plaintiff Jarrod Proctor suffered great injuries including, but not limited to, his neck, head and back which will require surgery.


COUNT IV

13. Plaintiff, Gwendolyn Proctor's vehicle involved in this accident has not been repaired and is a total loss.

14. Plaintiff, Gwendolyn Proctor's vehicle is a 2009 Pontiac GGT and is totally destroyed. The value of the property damage is \$5,175.00 and there is a loss of use from the day of the accident to present.

WHEREFORE Plaintiffs, Jarrod Proctor and Gwendolyn Proctor, pray judgment against the Defendants, The United States of America, United States Department of Interior, and Bureau of Indian Affairs for actual damages in an amount in excess of \$75,000.00 for their personal injuries, together with attorney fees, costs, interest as allowed by law and other relief as the Court may see fit; and \$5,175.00 for the property damage to the vehicle plus loss of use.

Respectfully submitted,



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