

1 9. On or about December 18, 2018, Plaintiff Garrett Donald was carefully and prudently
2 traveling eastbound on Moon Drive in Vehicle 1, approaching the intersection with South
3 Victoria Avenue.

4 10. Defendant Higgins was traveling from the westbound direction on Moon Drive where he
5 began to make a left turn onto the southbound lanes of South Victoria Avenue in Vehicle 2.

6 11. Defendant Higgins made an unsafe left-hand turn onto traffic attempting to enter the
7 roadway, resulting in a collision with Plaintiff's oncoming vehicle and causing damages to
8 Vehicle 1.

9 12. As a result of the collision, Plaintiff Garrett Donald suffered injuries to his back and
10 neck.

11 13. As a result of the collision, Plaintiff Samantha Pennington suffered injuries to both of her
12 legs, knees, and back.

13 14. Plaintiffs Garrett Donald and Samantha Pennington have sought treatment for their
14 injuries, ailments and conditions that directly and proximately resulted from Defendant Higgins's
15 negligence.

16 **FIRST CAUSE OF ACTION – NEGLIGENCE**

17 (By Plaintiffs GARRETT DONALD and SAMANTHA PENNINGTON against Defendant
18 RONALD JOHN HIGGINS and DOES 1 through 20, inclusive)

19 15. Plaintiffs reallege paragraphs 1 through 14 as if fully set forth herein and incorporate
20 same by reference.

21 16. The collision was caused by the carelessness and negligence of Defendant Higgins in
22 that, among other acts and omissions, he: (a) failed to safely enter the intersection; (b) failed to
23 observe due care and precaution and to maintain proper and adequate control of the motor
24 vehicle; (c) failed to keep proper lookout for other vehicles lawfully upon the road; (d) failed to
25 exercise reasonable care in the operation of the motor vehicle under the circumstances then
26

1 existing; (e) in other respects not now known to Plaintiffs but which may become known prior to
2 or at the time of trial.

3 17. *California Vehicle Code § 21801, subdivision (a)* provides: “The driver of a vehicle
4 intending to turn to the left or to complete a U-turn upon a highway, or to turn left into public or
5 private property, or an alley, shall yield the right-of-way to all vehicles approaching from the
6 opposite direction which are close enough to constitute a hazard at any time during the turning
7 movement, and shall continue to yield the right-of-way to the approaching vehicles until the left
8 turn or U-turn can be made with reasonable safety.”

9 18. Defendant Higgins was negligent inasmuch as he violated *California Vehicle Code §*
10 *21801, subdivision (a)* when he failed to yield the right-of-way to Plaintiff Garrett Donald’s
11 vehicle approaching from the opposite direction, which was close enough to constitute a hazard
12 at the time Defendant Higgins began the turning movement, thereby endangering the safety of
13 persons or property.

14 19. Moreover, *California Vehicle Code § 22350 Basic Speed Law* provides: “No person shall
15 drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due
16 regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no
17 event at a speed which endangers the safety of persons or property.”

18 20. Defendant Higgins was negligent inasmuch as he violated *California Vehicle Code §*
19 *22350* when he failed to drive a vehicle upon a highway at a reasonable or prudent speed and
20 therefore endangered the safety of persons or property.

21 21. As a direct and proximate result of the negligence and carelessness of Defendant Higgins,
22 DOES 1 through 20, and each of them, Plaintiffs Garrett Donald and Samantha Pennington
23 suffered painful bodily injuries, great physical pain and mental anguish, severe and substantial
24 emotional distress, and loss of the capacity for the enjoyment of life.

25 22. As a further direct and proximate result of the negligence and carelessness of Defendant
26 Higgins, DOES 1 through 20, and each of them, Plaintiffs Garrett Donald and Samantha

1 Pennington are currently undergoing, and will be required to continue to undergo, medical
2 treatment and to incur medical costs and expenses in order to alleviate injuries, pain and
3 suffering.

4 23. As a further direct and proximate result of the negligence and carelessness of Defendant
5 Higgins, DOES 1 through 20, and each of them, Plaintiffs Garrett Donald and Samantha
6 Pennington are, and will be, precluded from engaging in normal activities and pursuits.

7 24. As a further direct and proximate result of the negligence and carelessness of Defendant
8 Higgins, DOES 1 through 20, and each of them, the value of Plaintiff Garrett Donald's vehicle,
9 Vehicle 1, has been reduced and diminished in an amount which is presently unknown. Plaintiffs
10 will establish the diminution in value at the time of trial, according to proof.

11 25. As a further direct and proximate result of the negligence and carelessness of Defendant
12 Higgins, DOES 1 through 20, and each of them, Plaintiff Garrett Donald was, is, and will be
13 required to incur costs and expenses associated with his property damage.

14 26. As a further direct and proximate result of the negligence and carelessness of Defendant
15 Higgins, DOES 1 through 20, and each of them, Plaintiffs Garrett Donald and Samantha
16 Pennington have suffered lost earnings and injury to their earning capacities, and will continue to
17 suffer lost earnings and injury to their earning capacities in the future, in an amount according to
18 proof.

19 27. All of Plaintiffs Garrett Donald and Samantha Pennington's losses were, are, and will be,
20 due solely to and by reason of the carelessness and negligence of Defendant Higgins, DOES 1
21 through 20, and each of them, without any negligence or want of due care on Plaintiffs Garrett
22 Donald and Samantha Pennington parts contributing thereto.

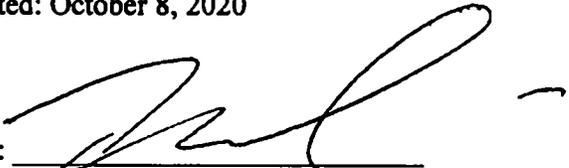
23 **PRAYER FOR RELIEF**

24 WHEREFORE Plaintiffs Garrett Donald and Samantha Pennington demand judgment on
25 the Complaint, as to the causes of action, and against defendants and each of them, and prays as
26 follows:

1 **Cause of Action – Negligence**

- 2 1. For general damages in an amount according to proof;
3 2. For special damages for medical and related expenses and property and related expenses
4 according to proof;
5 3. For loss of income and wages according to proof;
6 4. For costs of suit herein incurred; and
7 5. For all other relief as deemed appropriate.

8 Dated: October 8, 2020

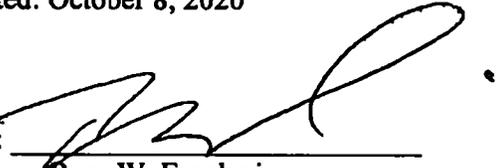
9
10 By: 

11 Russ W. Ercolani
12 ERCOLANI LAW GROUP
13 Attorney for Plaintiffs
14 GARRETT DONALD and
15 SAMANTHA PENNINGTON

16 **Demand for Jury Trial**

17 Plaintiffs hereby demand a jury trial of this action.

18 Dated: October 8, 2020

19
20 By: 

21 Russ W. Ercolani
22 ERCOLANI LAW GROUP
23 Attorney for Plaintiffs
24 GARRETT DONALD and
25 SAMANTHA PENNINGTON
26