

IN THE STATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

**CONFIDENTIAL  
SETTLEMENT**

RODRIGO XXXX , as the )  
Administrator of )  
FILE NO.: 14-E-000459 )  
The ESTATE OF )  
RODRIGO ABAD XXXX, )  
Deceased, )  
Plaintiff, )  
  
vs., )  
  
PHILLIP SAILORS, )  
  
Defendant. )

CIVIL ACTION:

FILE NO.:

**JURY TRIAL DEMANDED**

**COMPLAINT**

COMES NOW **RODRIGO XXXX** Plaintiff in the above-styled action and shows the Court the following:

**PARTIES, JURISDICTION AND VENUE**

**1.**

Plaintiff, **RODRIGO XXXX**, is a resident of Georgia. **RODRIGO XXXX**, brings this claim on behalf of the Estate of **RODRIGO ABAD XXXX**, as the duly appointed Administrator of the Estate of **RODRIGO ABAD XXXX**.

**2.**

Defendant **PHILLIP SAILORS** has a last known address of: 537 Hillcrest Road, Lilburn Gwinnett County, Georgia 30047, where he may be served with legal process.

**3.**

Defendant Phillip Sailors is subject to the jurisdiction of this Court because he is a resident of Gwinnett County Georgia.

**4.**

Venue is proper in this Court with respect to Defendant because he is a resident of Lilburn, Gwinnett County.

**5.**

On January 26, 2013, Rodrigo Abad XXXX was lawfully operating his automobile as he entered into the driveway of 537 Hillcrest Road in Gwinnett County Georgia. Angie Rebolledo, his girlfriend, was a passenger in the car at the time. Phillip Sailors negligently perceived that a home invasion was in progress. Phillip Sailor negligently discharged his handgun in a reckless manner. The negligent act of firing the gun into the open air caused injury to Plaintiff. Plaintiff Rodrigo Abad XXXX was unarmed.

**6.**

Gwinnett County EMS arrived on the scene to treat Rodrigo Abad XXXX. Emergency personnel transported him the Gwinnett County Medical Center. Rodrigo Abad XXXX was gravely injured by the impact, causing him to suffer and die on January 26, 2013, as a result of the aforementioned negligence.

**7.**

At the time of the shooting Rodrigo Abad XXXX was not committing a criminal act.

**8.**

The claims asserted by Plaintiff Rodrigo Abad XXXX against Defendant in this civil action arise out of the negligent discharge of said handgun on January 26, 2013, as described herein. Defendant owed a specific duty of care to Plaintiff Rodrigo Abad XXXX. Defendant breached that duty and the resulting death of Plaintiff Rodrigo Abad XXXX occurred. The breach of that duty was the proximate

cause of the death of Plaintiff Rodrigo Abad XXXX.

## **OPERATIVE FACTS**

### **9.**

Defendant Phillip Sailors is a resident of a home located at 537 Hillcrest Road, Lilburn, Gwinnett County Georgia. On January 26, 2013 Plaintiff Rodrigo Abad XXXX was operating his car within the bounds of the law. Plaintiff Rodrigo Abad XXXX was following his electronic global position satellite system (GPS) when the GPS erroneously directed him to the driveway of the home of Phillip Sailors. Plaintiff Rodrigo Abad XXXX turned his automobile around in the driveway and was leaving the property. Although no exigent circumstances were present, Defendant Phillip Sailors feared a home invasion was in progress. Defendant negligently retrieved his handgun from the home, and brought it outside. Defendant Phillip Sailors negligently perceived a threat. Defendant Phillip Sailors cocked the handgun thereby placing a bullet into the chamber and engaged the trigger. A bullet from the handgun struck Plaintiff Rodrigo Abad XXXX. After Plaintiff was hit he slumped over in the driver seat with blood covering his face and the top of his head. Before the shooting occurred, Plaintiff had been waiting at his place of employment when George Rebolledo, father of girlfriend Angie Rebolledo, drove his daughter to Plaintiff's place of work so the two could go on a date. After being struck by the bullet Angie Rebolledo remained in the automobile and provided comfort as she observed that Plaintiff was having difficulty breathing.

### **10.**

As a direct and proximate result of the negligence of Defendant, Plaintiff Rodrigo Abad XXXX suffered trauma to his head and other parts of his body. The projectile from the negligently discharged handgun caused mortal wounds to

Plaintiff Rodrigo Abad XXXX. Defendant has been trained in the in the handling, use and carrying of firearms. Defendant is also trained in the discipline required for the use of various firearms including but not limited to rifles and pistols. At the time of the shooting Defendant was a tall large framed white male. At all times Plaintiff Rodrigo Abad XXXX and his passenger Angie Rebolledo remained in the automobile and never exited upon the property of Defendant's property located at 537 Hillcrest Road Lilburn Gwinnett County Georgia. The entire amount of time that Plaintiff Rodrigo Abad XXXX was located on the property of the Defendant was less than 2 minutes.

### **LIABILITY OF THE DEFENDANT**

#### **11.**

Defendant Phillip Sailors is liable for the following acts and omissions, which include, but are not necessarily limited to, the following:

- (1) Negligently discharging a weapon in the direction of Plaintiff Rodrigo Abad Diaz;
- (2) Failure to act with due regard for the circumstances presented (reckless conduct).

### **DAMAGES CLAIMED**

#### **12.**

The damages claimed by Plaintiff Rodrigo Abad XXXX were proximately caused by the tortuous acts and omissions of Defendant. The medical treatment provided to Plaintiff Rodrigo Abad XXXX was reasonable and necessary and the medical bills in this case total \$114,789.23. The funeral bill in this case totals \$22,67.23.

#### **13.**

Plaintiff Rodrigo XXXX, as Administrator of Rodrigo Abad XXXX, the Deceased, claims the following damages suffered by his son Rodrigo Abad XXXX for which his Estate is entitled to recover:

- (A) Shock, fright and terror Rodrigo Abad XXXX experienced prior to his death;
- (B) All components of the mental and physical pain and suffering endured by Rodrigo Abad XXXX from impact and up until he died;
- (C) Funeral and burial expenses; and

**14.**

Plaintiff has suffered unnecessary trouble and expense as a result of Defendants' bad faith in the underlying transaction and/or stubborn litigiousness for which Defendants are liable for damages as provided by O.C.G.A. § 13-6-11.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

- (A) that summons issue, requiring the Defendant Phillip Sailors to appear as provided by law to answer this Complaint;
- (B) that Plaintiff have a trial by a jury of six;
- (C) that Plaintiff have and recover all damages for all loses compensable under Georgia law as set forth above;
- (D) that all costs be cast against the Defendant Phillip Sailors; and
- (E) for such other and further relief as the Court shall deem just and appropriate.

This \_\_\_\_\_ day of April, 2014.

(SIGNATURES OF COUNCEL ON FOLLOWING PAGE)

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