

Admit that you your acts of negligence caused the accident which forms the basis of this suit.

RESPONSE:

REQUEST FOR ADMISSION NO. 4:

Admit that you failed to exercise ordinary care in driving at a speed greater than a person using ordinary care would have driven under the same or similar circumstances at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 5:

Admit that you failed to exercise ordinary care in failing to keep a proper lookout at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 6:

Admit that you failed to exercise ordinary care in failing to stay in your lane of traffic at the time of the accident in question.

RESPONSE

REQUEST FOR ADMISSION NO. 7:

Admit that you failed to exercise ordinary care in failing to make proper application of the brakes at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 8:

Admit that you failed to maintain an assured safe distance from the car in front of you at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSIONS NO. 9:

Admit that you caused the accident in question.

RESPONSE:

REQUEST FOR ADMISSIONS NO. 10:

Admit that you owe plaintiff some amount greater than one U. S. cent as a result of the accident in question.

RESPONSE:

REQUESTS FOR ADMISSION NO. 11:

Admit that it is your contention that the Plaintiff was not injured when you were involved in a collision with him.

RESPONSE:

REQUEST FOR ADMISSION NO. 12:

Admit that it is your contention that your acts of negligence did not cause the accident which forms the basis of this suit.

RESPONSE:

REQUEST FOR ADMISSION NO. 13:

Admit that it is your contention that you did not fail to exercise ordinary care in driving at a speed greater than a person using ordinary care would have driven under the same or similar circumstances at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 14:

Admit that it is your contention that you did not fail to exercise ordinary care in failing to keep a proper lookout at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 15:

Admit that it is your contention that you did not fail to exercise ordinary care in failing to stay in your lane of traffic at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 16:

Admit that it is your contention that you did not fail to exercise ordinary care in failing to make proper application of the brakes at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSION NO. 17:

Admit that it is your contention that you did not fail to maintain an assured safe distance from the car in front of you at the time of the accident in question.

RESPONSE:

REQUEST FOR ADMISSIONS NO. 18:

Admit that it is your contention that you did not cause the accident in question.

RESPONSE:

REQUEST FOR ADMISSIONS NO. 19:

Admit that it is your contention that you owe plaintiff nothing, not even one cent, as a result of the accident in question.

RESPONSE:

III

Under Texas Law, when a party proves the truth of a request for admission that has been denied, they can apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney fees. Tex. R. Civ. Pro. 198 and 215.4(b). The court shall make the order unless it finds that (1) the request was held objectionable pursuant to Rule 193, or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had a reasonable ground to believe that he might prevail on the matter, or (4) there was other good reason for the failure to admit. Tex. R. Civ. Pro. 215.4(b). Here none of the matters denied were done in any good faith belief that they might prevail, there were no objections sustained, nor was there any good reason for their failure to admit.

IV.

As a direct result of the Defendant's failure to admit these matters, movant was compelled to obtain, prepare, and prepare introduce evidence as proof of those matters during the trial of this cause, as more specifically explained in the affidavit of movant's counsel attached as Exhibit B and incorporated by reference into this motion. Based on movant's proof, each of

those matters was established as true, as indicated by the jury's responses to questions submitted to them, in the jury's verdict. Furthermore, there was no basis to deny all the requests for admissions above.

IV.

Movant's reasonable costs and expenses necessarily incurred in proving the matters described above are as follows: \$1275. These expenses are substantiated by the affidavit of counsel attached as Exhibit B.

WHEREFORE, movant requests that the Court, after hearing this motion, award the moving party judgment for all of the expenses described above, including reasonable attorney's fees, against the Defendant, order that such award bear interest at the judgment rate from the date the matters were established as true, and permit the moving party such writs and processes as may be necessary in the collection of this award.

Respectfully submitted,

BROOKS LAW FIRM
3601 Columbia Boulevard
Garland, Texas 75041
(972) 278-1988
(972) 864-2030 FAX

Ray Brooks
State Bar No. 00787145
ATTORNEY FOR PLAINTIFF

Certificate of Service

This is to certify that a true and correct copy of the foregoing instrument is being sent to opposing counsel as set forth below on this day, April 25, 2003, pursuant to the Texas Rules of Civil procedure.

Kyle A. Miller
Amis & Bell
Brookhollow One, Suite 250
2301 E. Lamar Blvd.
Arlington, TX 76006

Via Fax: 817-640-1943

Ray Brooks

Certificate of Conference

This is to certify that prior to filing this motion a conference was held with opposing counsel, and no agreements could be reached at that time.

Ray Brooks

Exhibit A

- 2. Preparing Charles Durham for his deposition: 1 hours
- 3. Reading Ms. Peralta's deposition for trial: .5 hours
- 4. Preparing a power point presentation: 1.5 hours

Note, More time was spent on the presentation but we are only seeking one-half of the time as that was what was spent on preparing it.

- 5. Changing the power point presentation after defendant admitted liability at trial. .5 hours
- 6. Preparing voire dire. 1 hours
- 7. Preparing Cross examination .5
- 8. Preparing Witnesses, Mr. Durham for Trial 1.5 hours.

Total: 8.5 hours

Further Affiant Sayeth Not.

Ray Brooks

SUBSCRIBED AND SWORN TO BEFORE ME on the _____ day of August, 2003, to certify which witness my hand and official seal.

Notary Public in and for
The State of Texas
My Commission expires _____

