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Pretrial  
Order  
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ROBERT RAU AND MARY ANN RAU,  
HUSBAND AND WIFE

SUIT NO. 598,501 DIVISION: 27

VERSUS

19<sup>TH</sup> JUDICIAL DISTRICT COURT

NATIONAL GENERAL ASSURANCE  
COMPANY, DAVIN BOUDREAUX AND  
ALLSTATE INSURANCE COMPANY

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

PRETRIAL ORDER

A pretrial conference will be held before the Honorable Todd Hernandez on the 28<sup>th</sup> day of April 2015, at 9:30 a.m. Present will be:

John T. Joubert For Plaintiffs, Robert Rau and Mary Ann Rau  
Matthew M. Friedman For Defendant, Allstate Insurance Company

**I. PLAINTIFFS' CLAIMS:**

On or about January 22, 2010, petitioner Robert Rau was operating a 2008 Buick automobile southbound on Interstate 310 near milepost 11.5 in St. Charles Parish, Louisiana, when he legally slowed his vehicle as he approached several emergency vehicles responding to an incident that happened prior to the subject collision. While he was slowing due to the traffic congestion, his vehicle was suddenly, violently and negligently struck in the rear by a 2002 Lincoln automobile owned by Linda Boudreaux, driven with permission by defendant Davin Boudreaux and insured by defendant National General Assurance Company, causing the collision between the petitioners' and the defendant's vehicle and causing the petitioners to suffer personal injuries, damages and other losses.

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EAST BATON ROUGE, PARISH, LA.  
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DEPUTY CLERK OF COURT

At all times relevant hereto, petitioner Mary Ann Rau was a guest passenger in the 2008 Buick automobile operated by her husband Robert Rau.

On or about December 22, 1973, petitioners Robert Rau and Mary Ann Rau were married and are presently living together and have never divorced.

The sole and proximate cause of the above-described collision was the negligence and/or fault of defendant Davin Boudreaux including, but not limited to failing to maintain control of his vehicle; failing to use due and diligent care; failing to be attentive while operating a motor vehicle; following the petitioners' vehicle too closely; failing to maintain a proper lookout; driving at an

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excessive rate of speed under the circumstances; driving in a generally careless and negligent manner; failing to act with the required degree of care commensurate with existing driving conditions; and failing to adhere to the provisions of La. R.S. 32:64, which requires operators to drive in a reasonably prudent manner under the conditions and potential hazards.

At all times relevant hereto, defendant Davin Boudreaux was insured under an automobile liability policy of insurance issued by defendant National General Assurance Company. Defendants National General Assurance Company and Davin Boudreaux settled this matter with the plaintiffs by paying their \$50,000 per person and \$100,000 per accident liability limits, with \$50,000 being paid to each plaintiff, with the plaintiffs reserving any and all rights to pursue their underinsured motorist insurer, Allstate Insurance Company, and the right to all judicial interest and court costs.

At all times relevant hereto, petitioners Robert Rau and Mary Ann Rau were insured under an policy of insurance issued by defendant Allstate Insurance Company, which policy affords medical payments coverage of \$5,000 per person, which limits have been paid to both plaintiffs, and also uninsured/underinsured motorist coverage, \$100,000 per person and \$300,000 per accident UM limits, to the petitioners, rendering defendant Allstate Insurance Company solidarily liable for all damages owed to the petitioners in amounts that are reasonable in the premises. Allstate has unconditionally tendered to petitioner Robert Rau \$25,000 in UM benefits, but have not made any UM tenders to petitioner Mary Ann Rau.

As a result of the above-described collision, petitioner Robert Rau has suffered injuries, damages and losses, including, but not limited to, mental and physical pain and suffering in connection with injuries to his entire spine, including the back and neck, headaches and other bodily injuries, as well as past and future medical expenses, loss of earning capacity, lost wages and future loss of wages, and other damages that will be shown more fully at the trial of this matter, for which the defendants are obligated to this petitioner, *in solido*, in amounts that are reasonable in the premises.

As a result of the above-described collision, petitioner Mary Ann Rau has suffered injuries, damages and losses, including, but not limited to, mental and physical pain and suffering in connection with injuries to her entire spine, including the neck, contusions and abrasions to the right

arm, headaches, right knee pain and a head injury after striking her head during the collision and other bodily injuries, as well as past and future medical expenses, loss of earning capacity, lost wages and future loss of wages, and other damages that will be shown more fully at the trial of this matter, for which the defendants are obligated to this petitioner, *in solido*, in amounts that are reasonable in the premises.

As a result of the above-described collision, both petitioners also suffered in the form of loss of enjoyment of life, inconvenience, aggravation, loss of consortium, *LeJeune* damages as a result of observing each others' injuries immediately after the collision, which has caused them both to suffer mental anguish and emotional distress as contemplated by La. Civ. Code art. 2315.6 and other damages, injuries and losses that may be shown more fully at the trial of this matter, which the defendants are obligated to the petitioners, *in solido*, for amounts that are reasonable in the premises.

## **II. DEFENDANT'S CLAIMS:**

Defendant, Allstate Insurance Company, has been named herein as the uninsured/underinsured motorist carrier of the vehicle operated by Robert Rau.

Allstate Insurance Company denies the nature and extent of the plaintiffs' injuries and in particular the causal relationship of the Friday, January 22, 2010 accident to the injuries claimed by the plaintiffs.

Defendant, Allstate Insurance Company, also asserts its entitlement to a credit or offset to the extent of all available underlying liability and/or UM coverage. Allstate Insurance Company is also entitled to a credit for the amount paid under the medical payments provision of its policy. Defendant specifically pleads a credit and/or offset for any amounts paid and/or payable to plaintiffs under any workers compensation law, disability benefits law, or similar law.

Defendants also specifically contest the degree, nature, extent and causation of the *plaintiff's* alleged injuries.

## **III. OTHER CLAIMS:**

None at this time.

**IV. ESTABLISHED FACTS:**

- A. A vehicle operated by Robert Rau, with Mary Ann Rau as a guest passenger, was struck in the rear by a vehicle operated by Davin Boudreaux and insured by defendant National Assurance General Company, while Robert Rau was operating his vehicle southbound on Interstate 310 near milepost 11.5 in the Parish of St. Charles, Louisiana on January 22, 2010.
- B. The parties to this litigation stipulate that Davin Boudreaux caused the collision in question and that Robert Rau and Mary Ann Rau did not cause or contribute to causing said collision.
- C. At the time of the collision, Davin Boudreaux was only insured under a policy of automobile liability insurance issued by National Assurance General Company, with \$50,000 per person and \$100,000 per accident liability limits.
- D. At the time of the collision, Robert and Mary Ann Rau were only insured under a UM automobile insurance policy issued by Allstate Insurance Company, with \$100,000 per person and \$300,000 per accident UM limits.
- E. Robert Rau and Mary Ann Rau were injured in the January 22, 2010 automobile collision.

**V. CONTESTED ISSUES OF FACT:**

- A. The nature, cause, extent and amount of the damages claimed by the plaintiffs as a result of the collision in suit; and
- B. The amount of medical expenses incurred and/or to be incurred in the future by the plaintiffs that were caused by the automobile collision.

**VI. CONTESTED ISSUES OF LAW:**

The contested issues of law are all of those that are implicit in the foregoing issues of fact and as stated in the contentions of the parties.

**VII. EXHIBITS:**

**A. PLAINTIFFS MAY INTRODUCE THE FOLLOWING EXHIBITS AT TRIAL:**

- 1. Any and all collision/police reports or investigative reports prepared from the January 22, 2010 motor vehicle collision, including, but not limited to, Uniform Motor Vehicle Traffic Collision Report No. A-01989-10;
- 2. Resumes or curriculum vitas of experts called to testify at trial;
- 3. Any and all experts' reports;
- 4. Any document or record relied upon by any expert;
- 5. Any photographs, slides, drawings, transparencies, video and/or other exhibits portraying the scene of the collision and/or vehicles involved in the collision that were produced during the discovery of this matter;

6. Any depositions, written discovery, discovery responses or pleadings taken or to be taken or filed in this matter, including any exhibits attached thereto;
7. All medical records, medical bills, hospital records, narrative medical reports or other documents evidencing petitioner Robert Rau's medical treatment, including, but not limited to, from St. Charles Parish Hospital, C & M Medical Services, Spine Diagnostic Pain & Treatment Center, Imaging Center of Louisiana, Dutch Physical Therapy, Interventional Pain Management/NovaMed, Baton Rouge Fluoroscopic, Genesis Medical, Baton Rouge Anesthesia Services, The NeuroMedical Center, Pontchartrain Orthotics & Prosthetics/Moore Medical and all prescription records and bills;
8. All medical records, medical bills, hospital records, narrative medical reports or other documents evidencing petitioner Mary Ann Rau's medical treatment, including, but not limited to, from St. Charles Parish Hospital, C & M Medical Services, Shenandoah Medical Associates, Advanced Eye Center, Spine Diagnostic Pain & Treatment Center, Dutch Physical Therapy, Baton Rouge Radiology Group, Bone & Joint Clinic, Baton Rouge Ear, Nose, & Throat Associates, The NeuroMedical Center and all prescription records and bills;
9. Any payroll records or documents of the plaintiffs' employers;
10. The plaintiffs' tax returns and documents/records related to the plaintiffs' income/wages/earnings;
11. Sketches, diagrams and/or charts that show the economic losses, damages, and wages of the plaintiffs;
12. Sketches, diagrams, charts, photographs and/or exhibits needed to illustrate the collision scene and/or damages suffered by the plaintiffs;
13. Repair estimates and appraisals in connection with the property damage claim;
14. Copies of all applicable policies of insurance that provided coverage to the plaintiffs in this matter, including, but not limited to, a copy of the insurance policy issued by Allstate Insurance Company;
15. Copies of all applicable policies of insurance that provided coverage to the defendants in this matter, including, but not limited to, a copy of the insurance policy issued by National General Assurance Company;
16. Any document to prove any defendant's insured or underinsured status, including, but not limited to Affidavits and/or letters/Affidavits from the Department of Public Safety and Corrections;
17. Any statement made by any parties or witnesses;
18. Any document produced during the discovery phase of this matter;
19. Any other document which counsel for plaintiffs is presently unaware and/or which may be obtained through additional discovery; and
20. Any other exhibits listed by any other party.

**B. DEFENDANT MAY INTRODUCE THE FOLLOWING EXHIBITS AT TRIAL:**

Defendants, Allstate Insurance Company, may introduce the following exhibits. Exhibit authenticity and/or admissibility have not yet been stipulated.

1. Diagram of the scene of the alleged accident;
2. Photographs and/or slides and/or videos of the plaintiffs, scene of the alleged accident, and/or of the vehicles involved in the accident;
3. Transcripts of any depositions or parts thereof, of any parties and/or witness in this action, to the extent permitted by Louisiana Code of Civil Procedure and Louisiana Code of Evidence;
4. Medical records and/or medical narrative reports prepared in connection with the alleged injuries and treatment of the plaintiff (prior and/or subsequent to the subject accident) from any physician, practitioner and/or chiropractor;
5. Any and all relevant hospital records, medical records, reports, x rays, and/or MRI study films, CT scan films, EMG/NCS graphs, interpretative report relating to the foregoing studies, and any other such diagnostic tests, x ray reports, notes, and medical bills (prior to and/or subsequent to the subject accident) regarding plaintiff's treatment and alleged injuries;
6. Medical records, X rays, X ray reports and medical narrative reports prepared by any independent medical examiners in connection with the alleged injuries of the plaintiff;
7. Any and all relevant property damage estimates or proof of loss;
8. Interrogatories and Answers to Interrogatories propounded to and/or by the plaintiff and/or defendants in this matter and any other relevant pleadings in this cause, to the extent permitted by Louisiana Code of Civil Procedure and Louisiana Code of Evidence;
9. Certified copy of the policy of insurance issued by Allstate Insurance Company;
10. Certified copy of any other applicable insurance of any other parties in this action;
11. Federal and State income tax returns and W 2 forms of the plaintiff;
12. Any and all reports (accident and/or otherwise) resulting from the accident or any other accidents therein;
13. Any and all statements concerning the accident(s) in question which may be used for impeachment purposes;
14. Personnel and employment records of plaintiff;
15. Pre employment physical examinations of plaintiff;

16. Copies of any criminal convictions of any and all parties and/or witnesses herein;
17. Copies of all medical bills paid by Allstate Insurance Company in connection with its contractual obligation under the medical pay provisions;
18. Copies of any and all checks issued by Allstate Insurance Company to its insureds evidencing the sum paid by Allstate Insurance Company in connection with damages arising out of the accident which is the subject matter of this lawsuit;
19. Counsel for defendant may use a blackboard or poster board during the trial of this matter;
20. Any and all other documents and exhibits listed and/or introduced by any other party, or added to this list with leave of court; and
21. Authoritative/Recognized medical treatises, texts, articles, and/or excerpts thereof/therefrom to the extent permitted by the Louisiana Code of Evidence, including but not limited to the AMA Guidelines to the Evaluation of Permanent Impairment (Fourth Edition), Campbell's Operative Orthopaedics, Turek on Orthopaedics, and/or Gray's Anatomy (30th American Edition).

**VIII. EXHIBIT AUTHENTICITY:**

The above listed exhibits have not yet been stipulated as to authenticity, but undersigned counsel will discuss prior to trial.

**IX. WITNESSES:**

**A. PLAINTIFFS' WITNESSES (MAY CALL):**

1. Robert Rau, re: facts;
2. Mary Ann Rau, re: facts;
3. The plaintiffs' children, Cindy Rau Reiger and Robert Rau, re: facts;
4. The Raus' family friend Melissa Kaiser, re: facts;
5. Devin Boudreaux, re: facts;
6. Linda Boudreaux, re: facts;
7. The investigating officer of the collision, Officer Cyril Favaloro, Badge No. 583, with the Uniform Motor Vehicle Traffic Crash Report, and any other investigating officer of the collision, re: facts;
8. Any party to the lawsuit, re: facts;
9. Representative of National General Assurance Company, re: insurance matters;
10. Representative of Allstate Insurance Company and Liberty Mutual, re: insurance matters;



11. All healthcare providers that have evaluated or treated petitioner Robert Rau, including, but not limited to providers from St. Charles Parish Hospital, C & M Medical Services, Spine Diagnostic Pain & Treatment Center (Dr. J. Turnipseed), Imaging Center of Louisiana, Dutch Physical Therapy, Interventional Pain Management/NovaMed, Baton Rouge Fluoroscopic, Genesis Medical, Baton Rouge Anesthesia Services, The NeuroMedical Center (Dr. Waguespack), Pontchartrain Orthotics & Prosthetics/Moore Medical and a pharmacy representative.
12. All healthcare providers that have evaluated or treated petitioner Mary Ann Rau, including, but not limited to, St. Charles Parish Hospital, C & M Medical, Shenandoah Medical Associates, Advanced Eye Center, Spine Diagnostic Pain & Treatment Center (Dr. J. Turnipseed), Dutch Physical Therapy, Baton Rouge Radiology Group, Bone & Joint Clinic, Baton Rouge Ear, Nose, & Throat Associates, The NeuroMedical Center, and a pharmacy representative;
13. Representatives of any healthcare provider that have treated or evaluated the plaintiffs, including, but not limited to, St. Charles Parish Hospital, C & M Medical Services, Shenandoah Medical Associates, Advanced Eye Center, Spine Diagnostic Pain & Treatment Center, Imaging Center of Louisiana, Dutch Physical Therapy, Interventional Pain Management/NovaMed, Baton Rouge Fluoroscopic, Genesis Medical, Baton Rouge Anesthesia Services, The NeuroMedical Center, Pontchartrain Orthotics & Prosthetics/Moore Medical, Baton Rouge Radiology Group, Bone & Joint Clinic, Baton Rouge Ear, Nose, & Throat Associates, and pharmacy representatives, re: facts and expert testimony;
14. Custodian of records for all healthcare providers that provided treatment to the plaintiffs, re: facts and expert testimony;
15. Any witness necessary for the introduction of any exhibits, facts;
16. Representative of the plaintiffs' employers, including, but not limited to Betty Burns, re: lost wages, income and facts
17. Any eyewitness to the collision sued upon, re: facts;
18. A forensic accountant/economists and/or vocational rehabilitation experts, to be named later, re: lost wage information, facts and expert testimony;
19. A life care plan/future medical care plan expert, to be named later, re: expert testimony;
20. Any witness identified during the discovery phase of this matter, including all individuals identified in depositions, re: facts;
21. Any individual identified in any deposition taken in this matter;
22. Any other witness of which plaintiffs' counsel is presently unaware and/or which may be obtained through additional discovery herein, re: facts; and
23. Any witness listed by any other party, re: facts, etc.

The plaintiffs reserve the right to supplement this witness list upon giving notice to opposing counsel prior to the trial of this matter.

**B. DEFENDANTS' WITNESSES (MAY CALL):**

1. Robert Rau - testimony regarding facts and circumstances surrounding the accident, effects of the accident, injuries, if any, the extent and nature of said injuries and damages, if any;
2. Mary Ann Rau - testimony regarding facts and circumstances surrounding the accident, effects of the accident, injuries, if any, the extent and nature of said injuries and damages, if any;
3. Davin Boudreaux - testimony regarding facts and circumstances surrounding the accident;
4. Officer Cyril Favaloro investigating officer testimony regarding the facts and circumstances surrounding the accident in question;
5. Dr. Joseph Turnipseed, Dr. Michael Burdine, Dr. Paul Waguespack, Dr. Gregory Ferrara, Dr. Randall Lea, Dr. William Williamson, Dr. Kevin Callerame, Dr. Richard Foster, Dr. Charles Walker, and/or any doctor, physician and/or other practitioner, chiropractor and/or medical health care provider, who has seen or treated Plaintiffs (prior and/or subsequent to the subject accident); and whose identity may be revealed prior to the trial of this matter;
6. Medical records custodian of any hospital, clinic and/or facility at which plaintiffs received medical treatment (prior and/or subsequent to the subject accident);
7. Any physician and/or medical health care provider consulted to conduct an independent medical examination upon plaintiff;
8. Representative of Allstate Insurance Company;
9. Any witness listed, subpoenaed or called by any other parties;
10. Any witness whose identity may be revealed in discovery which is ongoing and subsequent to the filing of this list;
11. Any witnesses necessary for the introduction of any exhibit.
12. Rebuttal/Impeachment witness(es) as permitted by the Louisiana Code of Evidence;

Defendant reserves the right to supplement this witness list upon giving notice to opposing counsel prior to the trial of this matter.

**X. ADDITIONAL MATTERS:**

The parties to this litigation reserve the right to amend the Pretrial Order for any reasons no later than ninety (90) days prior to the date of trial, provided that notice of their intent to amend the Pretrial Order is provided to opposing counsel no later than ninety (90) days prior to trial.

**XI. ESTIMATED LENGTH OF TRIAL:**

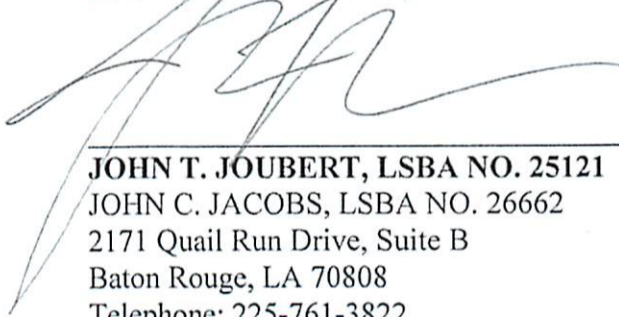
The parties believe this matter can be tried in three (3) days as a jury trial.

**CERTIFICATE**

We hereby certify to the court that we have conferred pursuant to Rule VII of the Civil Rules of the 19<sup>th</sup> Judicial District Court for the purposes of preparing the Pretrial Order, and that we shall properly attend the pretrial conference at the time assigned by this Court.

By Attorneys:

**JOUBERT LAW FIRM, APLC**



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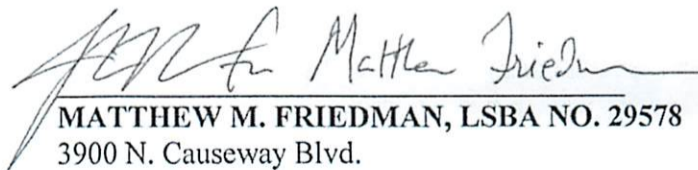
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Mary Ann Rau

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Attorney for Defendant Allstate Insurance Company

**ROBERT RAU AND MARY ANN RAU,  
HUSBAND AND WIFE**

**SUIT NO. 598,501 DIVISION: 27**

**19<sup>TH</sup> JUDICIAL DISTRICT COURT**

**VERSUS**

**NATIONAL GENERAL ASSURANCE  
COMPANY, DAVIN BOUDREAUX AND  
ALLSTATE INSURANCE COMPANY**

**PARISH OF EAST BATON ROUGE**

**STATE OF LOUISIANA**

**ORDER**

**IT IS ORDERED** that this cause be set for trial by jury at \_\_\_\_\_ o'clock \_\_\_\_m.  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**IT IS FURTHER ORDERED** that the jury bond is fixed in the amount of  
\$ \_\_\_\_\_ and is to be filed not later than \_\_\_\_\_, \_\_\_\_\_ by the  
requesting party or not later than \_\_\_\_\_, \_\_\_\_\_ by the non-requesting party,  
with a true or certified copy of same to be delivered to the Jury System Coordinator on the date filed.

**TRIAL BRIEFS/SPECIAL JURY CHARGES AND VERDICT FORMS** are to be  
submitted to the Court not later than \_\_\_\_\_, \_\_\_\_\_.

Baton Rouge, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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**JUDGE TODD HERNANDEZ,  
19TH JUDICIAL DISTRICT COURT**