

Arkansas
State Claims Commission

APR 22 2022

RECEIVED

Please note that all sections must be completed, or this form will be returned to you, which will delay the processing of your claim.

1. Claimant's Legal Counsel - (If representing yourself (Pro Se) please check this box and proceed to section 2)

Priebe Jeff jeff@jeffpriebe.com

(last name) (first name) (email)

P.O. Box 7481 Little Rock AR 72217 501-580-7890

(address) (city) (state) (zip) (primary phone)

Arkansas Bar Number: 2001124 *If not licensed to practice law in Arkansas, please contact the Claims Commission for more information.*

2. Claimant

Mrs. Wages, Judy n/a

(title/last name/first name or company) (email)

[Redacted]

(address) (city) (state) (zip) (primary phone)

3. State Agency Involved: (must be an Arkansas state agency. The Arkansas Claims Commission has no jurisdiction over county, city, or other municipalities)

Arkansas State Highway & Transportation Department

(state agency involved)

4. Incident Date

12/21/2021

5. Claim Type

Please provide a brief explanation of your claim. If additional space is required please attach additional statements to this form. Claimant was a passenger in a car traveling north on Hwy. 103 when the driver of the state vehicle failed to negotiate a right curve while driving south on Hwy. 103 and crossed the center line. The driver of claimant's car saw the other driver enter his lane and, trying to avoid a head-on collision, attempted to veer left, then hit his brakes, causing about 25 ft of skid marks. The front passenger side of the other vehicle hit the front passenger side of claimant's vehicle, causing claimant's vehicle to rotate clockwise and come to a final rest in the northbound lane of Hwy. 103, facing northeast. The collision was due to the other driver failing to maintain his lane of traffic and failing to maintain control of his vehicle. See Complaint.

5a. Check here if this claim involves damage to a motor vehicle.

5b. Check here if this claim involves damage to property other than a motor vehicle.

All property damage claims require a copy of your insurance declarations covering the property or motor vehicle at the time of damage.

I did not have insurance covering my property/motor vehicle at the time of damage.

All property damage claims require ONE of the following (please attach):

- 1. Invoice(s) documenting repair costs, OR
- 2. Three (3) estimates for repair of the damaged property, OR
- 3. An explanation why repair bill(s) or estimate(s) cannot be provided.

6. Was a state vehicle involved? (If Yes, please complete the following section)

2017 Ram 1500	[REDACTED]	Abhishek Kumbhani
(type of state vehicle involved)	(license number)	(driver)

7. Check here if this claim involves personal injury. X

All personal injury claims require a copy of your medical insurance information and relevant medical bills in place at the time of the incident.

I do not have health insurance

8. Amount Sought: Unknown at this time

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Judy Wages
Claimant

ACKNOWLEDGEMENT

State of Arkansas
County of Johnson

On this the 21st day of April, 2022, before me, the undersigned notary, personally appeared Judy Wages known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

John Lewis
Signature of Notary Public
My Commission expires: 2-11-23

[seal of office]

<p>John Lewis PULASKI COUNTY NOTARY PUBLIC – ARKANSAS My Commission Expires February 11, 2029 Commission No. 12706735</p>

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JUDY WAGES

PLAINTIFF

VS.

CASE NO. _____

**ARKANSAS STATE HIGHWAY &
TRANSPORTATION DEPARTMENT**

DEFENDANT

COMPLAINT

COMES NOW the Plaintiff, Judy Wages, by and through her attorney, PRIEBE LAW FIRM, and for her Complaint against the Defendant, states and alleges the following:

I. PARTIES

1. Plaintiff Judy Wages was at all times relevant a citizen and resident of Ozone, Johnson County, Arkansas.
2. Defendant Arkansas State Highway and Transportation Department was the employer of Abhishek C. Kumbhani and owner of the vehicle that struck the Plaintiff, at all times relevant to this matter.
3. The incident giving rise to this cause of action occurred on Hwy 103 Johnson County.

II. JURISDICTION AND VENUE

4. This Commission has jurisdiction and venue is proper.

5. This is a negligence case which arises from a motor vehicle collision that occurred on December 21, 2021, on Hwy 103 Johnson County.

III. FACTS

6. On or about December 21, 2021, at approximately 3:08 PM, Mrs. Wages was a passenger in a car driven by her husband that was traveling north on Hwy. 103, in a 1998 Toyota Rav4.

7. At the same time, and apparently in the course and scope of employment with the Arkansas State Highway and Transportation Department, Mr. Kumbhani was traveling south on Hwy. 103, in a 2017 Ram 1500, owned by Arkansas State Highway and Transportation Department

8. Mr. Kumbhani failed to negotiate a right curve and crossed the center line.

9. Mr. Wages saw the other driver enter his lane and, trying to avoid a head-on collision, attempted to veer left, then hit his brakes, causing about 25 feet of skid marks.

10. The front passenger side of Mr. Kumbhani's car hit the front passenger side of Mr. Wages' car, causing his vehicle to rotate clockwise and come to a final rest in the northbound lane of Hwy. 103, facing northeast. **See Exhibit 1 (pictures of the Wages' vehicle).**

11. Mr. Kumbhani was cited by the Arkansas State Police for violating Arkansas Code Annotated 27-51-301 for driving left of center. **See Exhibit 2 (Arkansas State Police Accident Report).**

12. As a result of the collision, Mrs. Wages sustained personal injuries and damages.

13. At the time of the collision, neither the Plaintiff nor her husband, Mr. Wages, had

any automobile insurance that was provide for her damages applicable to this case.

14. At the time of the collision, Defendant Arkansas State Highway and Transportation Department did not have any automobile insurance that was provide for the Plaintiff's damages in this case.

IV. CAUSE OF ACTION – NEGLIGENCE

15. Mr. Kumbhani was negligent in the following particulars:
- a. Driving in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, in violation of Ark. Code Ann. § 27-51-104(a);
 - b. Driving in such a careless manner as to evidence a failure to maintain proper control, in violation of Ark. Code Ann. § 27-51-104(a), (b)(6) & (b)(8);
 - c. Operating a vehicle in such a manner which would cause a failure to maintain control, in violation of Ark. Code Ann. § 27-51-104(b)(6);
 - d. Driving in a manner that was inattentive and such inattention was not reasonable and prudent in maintaining vehicular control, in violation of Ark. Code Ann. § 27-51-104(b)(8);
 - e. Failing to keep a lookout for other vehicles, in violation of the common law of Arkansas;
 - f. Failing to keep his vehicle under control, in violation of the common law of Arkansas;
 - g. Failing to drive on the right side of the roadway in violation of Ark. Code Ann. § 27-51-301;
 - h. Failing to drive within a single lane in violation of Ark. Code Ann. § 27-51-302;
 - i. Failing to properly yield the right-of-way in violation of Ark. Code Ann. § 27-51-503; and
 - j. Otherwise failing to exercise ordinary care under the circumstances.
16. Defendant Arkansas State Highway and Transportation Department, as the

employer of Abhishek C. Kumbhani, is responsible for the negligence and negligent actions of Mr. Kumbhani.

V. PROXIMATE CAUSATION

17. Mr. Kumbhani's negligence proximately caused the collision described herein and the injuries and damages sustained by Mrs. Wages.

VI. INJURIES AND DAMAGES

18. Mrs. Wages sustained personal injuries and damages as a result of the collision. Mrs. Wages had to undergo medical treatment for injuries including, but not limited to, broken ribs and back pain. She was transported by ambulance from the accident to an emergency room where she underwent multiple tests, scans, and treatment. When she was released from the hospital, she followed up with her PCP for further treatment.

19. Itemized statements or bills for medical, hospital, or other expenses of those performing the services, with notations as to whether or not the same have been paid, the date of payment, and the signature of the person receiving payment appended thereto. See **Exhibit 3 (Index of Medical Expenses for Judy Wages with supporting itemized statements)**.

20. Mrs. Wages is entitled to the following damages:

- (a) the nature, extent, duration, and permanency of her injuries;
- (b) the full extent of the injuries she sustained;
- (c) the expense of her medical care, treatment and services received, including transportation, board and lodging expenses and those expenses that are reasonably certain to be required in the future;
- (d) any pain, suffering and mental anguish experienced in the past and reasonably certain to be experienced in the future;
- (e) the value of any earnings, earning capacity, profits, or salary lost in the past and that are reasonably certain to be lost in the future;

- (f) the visible results of her injuries; and,
- (g) any property damages she sustained.

21. The injuries and damages described herein have been suffered in the past and will be continuing in the future.

VII. DEMAND & PRAYER

22. All insurance, if any, has been exhausted by the Plaintiff.

23. Plaintiff demands judgment against Defendant for pre-judgment interest and post-judgment interest at the maximum rate allowed by law; for reasonable expenses; costs; and for all other proper relief to which Plaintiff may be entitled.

Respectfully Submitted,

Judy Wages, Claimant

By: 

Jeff Priebe (Ark. Bar No. 2001124)
PRIEBE LAW FIRM
P.O. Box 7481
Little Rock, AR 72217
Telephone: (501) 580-7890
Email: jeff@jeffpriebe.com

Attorneys for Claimant

SETTLEMENT, RELEASE, PRO RATA DISCHARGE AND INDEMNITY AGREEMENT

I, Judy Wages, also hereafter referred to as "the undersigned," for and in consideration of the payment of the sum of Twenty-Thousand & 00/100 Dollars (\$20,000.00), the receipt and sufficiency of which are hereby acknowledged, do hereby compromise, settle with, release, acquit and forever discharge the Arkansas Department of Transportation, Arkansas State Highway Commission, their predecessors, sub-agencies, successors, agents, servants, officers, employees, partners, insurers, and assigns and any other person, firm, corporation, or association in privity with it (hereinafter sometimes collectively referred to as "those herein released"), or any of them, of and from any and all liability, actions, claims, demands, and causes of action whatsoever which the undersigned may now have or may have in the future arising out of an accident or incident occurring on or about December 21, 2021, on Highway 103 in rural Johnson County, Arkansas, including all injuries, damages, and consequences whatsoever known and unknown, and regardless of whether the extent of the damages or the existence of the claim is now known or may not be determined until sometime in the future.

For the same consideration and as part of this settlement, it is understood and agreed that any lawsuit presently pending in the Arkansas State Claims Commission and styled *Judy Wages v. Arkansas Department of Transportation*, Claims Commission No. 221236, against those herein released, solely or among others, shall be dismissed with prejudice as to any claims of the undersigned asserted in that action against those herein released. It is understood that tender of payment by warrant will be made payable to the undersigned in the amount of Twenty-Thousand & 00/100 Dollars (\$20,000.00), which has been agreed to by the undersigned, and this settlement, in accordance with Arkansas law, is contingent upon approval from the Arkansas State Claims Commission and the Claims Review/Litigation Reports Oversight Subcommittee of the Arkansas Legislative Council Committee of the Arkansas General Assembly.

For the same consideration and as part of this compromise, the undersigned agrees to indemnify, protect and hold harmless those herein released of and from any and all claims, judgments, costs, expenses and losses (including attorney's fees) arising out of any subsequent actions, claims, or demands by reason of a claim by the undersigned or derivative of the undersigned, arising out of the hereinabove described incident. For the same consideration and as part of this compromise settlement, the undersigned further agrees to indemnify and hold harmless those herein released of and from any claims, judgments, costs, expenses and losses (including attorney's fees) by reason of any lien or subrogation rights or assigned claim asserted or claimed by any third parties on account of benefits or services provided to or for the undersigned as a result of the alleged incident described above.

It is the express intention of the undersigned to reserve any rights, claims, or causes of action which the undersigned may have against any person other than those herein released but to release fully and completely those herein released. Therefore, in consideration of the above payment, the undersigned agree to a reduction of the damages recoverable against all other tortfeasors to the extent of the pro rata share of the liability of those herein released, and further agree to indemnify, protect and hold harmless those herein released from all judgments, claims, losses or expenses arising out of or by reason of any action, claim or demand by any person on account of the injuries sustained by the undersigned as a result of the above described incident or any liability or alleged liability of those herein released. It is specifically intended that those herein released are and shall be released, indemnified and held harmless with respect to any liability or alleged liability under Act 315 of the Acts of Arkansas for 1941, as amended, being the Uniform

Contribution Among Tortfeasors Act. This instrument does not release the undersigned from any claims by those herein released for contribution or indemnity.

It is understood and agreed that this is a compromise settlement of doubtful and disputed claims; that the payment made shall never be construed as an admission of liability on the part of any of those herein released, by each of whom liability is expressly denied; that this payment is received in full, final and complete settlement and satisfaction of all claims against those herein released arising or to arise out of the incident described above, including any claims for contribution by other alleged tortfeasors; that the undersigned hereby declares that no representations about the nature and extent of damages nor any representations regarding the nature and extent of legal liability or financial responsibility of any of those herein released have induced the undersigned to make this release and agreement; that this release contains the entire agreement between the parties and the terms herein are contractual in nature and not merely recitals.

EXECUTED on this the 18th day of January, 2023.

Judy Wages, Claimant:

Judy Wages

APPROVED:

By: Jeff Priebe

Jeff Priebe (AR 2001124)
Phone: (501) 580-7890

Respondent:

Rita S. Looney
Rita S. Looney
Chief Counsel, Arkansas Department of Transportation

APPROVED:

Amanda J. Andrews, Staff Attorney
Arkansas Department of Transportation
P.O. Box 2261
Little Rock, AR 72203-2261
Office: (501) 569-2278
Fax: (501) 569-2164

By: Amanda J. Andrews
Amanda J. Andrews (Ark. Bar No. 2005205)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JUDY WAGES

CLAIMANT

V.

CLAIM NO. 221236

**ARKANSAS DEPARTMENT OF
TRANSPORTATION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a Settlement, Release, Pro Rata Discharge and Indemnity Agreement (the “Settlement Agreement”) signed by Judy Wages (the “Claimant”), Claimant’s attorney, and the chief counsel and staff attorney for the Arkansas Department of Transportation (the “Respondent”). Based upon a review of the pleadings and the Settlement Agreement, the Claims Commission hereby APPROVES the Settlement Agreement and REFERS the total award of \$20,000.00 to the General Assembly for review and placement on an appropriations bill pursuant to Ark. Code Ann. § 19-10-215(b).

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: January 20, 2023

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).