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## Nebraska Judicial Branch

## Case Summary

In the District Court of Douglas County  
 The Case ID is CI 15 0010139  
 Bailey v. M.B.C. Construction Co., Inc.  
 The Honorable James T Gleason, presiding.  
 Classification: Negligence-Vehicular  
 Filed on 11/23/2015  
 This case is Open as of 11/23/2015

## Parties/Attorneys to the Case

Party	Attorney
Plaintiff ACTIVE Tamra J Bailey	Gregory R Abboud 6530 So 84th Street Omaha NE 68127 402-331-3555
Defendant ACTIVE M.B.C. Construction Co., Inc. c/o A. Roger Stueckrath 3108 South 67th Ave Omaha NE 68127	David M Woodke 619 N 90th Street Omaha NE 68114 402-391-6000

## Court Costs Information

Incurred By	Account	Date	Amount
Plaintiff	Petition	11/23/2015	\$35.00
Plaintiff	Filing Fee - State	11/23/2015	\$5.00
Plaintiff	Automation Fee	11/23/2015	\$8.00
Plaintiff	NSC Education Fee	11/23/2015	\$1.00
Plaintiff	Dispute Resolution Fee	11/23/2015	\$0.75
Plaintiff	Indigent Defense Fee	11/23/2015	\$3.00
Plaintiff	Uniform Data Analysis Fee	11/23/2015	\$1.00
Plaintiff	J.R.F.	11/23/2015	\$6.00
Plaintiff	Filing Fee-JRF	11/23/2015	\$2.00
Plaintiff	Legal Aid/Services Fund	11/23/2015	\$5.25
Plaintiff	Complete Record	11/23/2015	\$15.00
Plaintiff	Service Fees	12/16/2015	\$18.00

## Financial Activity

No trust money is held by the court  
No fee money is held by the court

### Payments Made to the Court

Receipt	Type	Date	For	Amount
204765	Electronic Trans	11/23/2015	Bailey, Tamra, J	\$82.00
			Petition	\$35.00
			Filing Fee - State	\$5.00
			Automation Fee	\$8.00
			NSC Education Fee	\$1.00
			Dispute Resolution Fee	\$.75
			Indigent Defense Fee	\$3.00
			Uniform Data Analysis	\$1.00
			J.R.F.	\$6.00
			Filing Fee-JRF	\$2.00
			Legal Aid/Services Fun	\$5.25
			Complete Record	\$15.00

### Register of Actions

01/05/2017 Withdraw Motion  
This action initiated by party Tamra J Bailey  
Re: Term Depo /mg  
Image ID N17005WF8D01

12/12/2016 Motion Filed  
This action initiated by party Tamra J Bailey  
Re: Term Depo  
1/5/17 1pm CR 505 /mg  
Image ID N16347ER8D01

12/09/2016 Recuse Judge  
This action initiated by Thomas A Otepka  
RT  
Image ID 001422626D01

10/13/2016 Order-Compel  
This action initiated by James T Gleason  
re: ans interrog eNotice Certificate Attached  
Image ID 001392631D01

09/15/2016 Resistance  
This action initiated by party M.B.C. Construction Co., Inc.  
RE: Motion to Compel / RT  
Image ID N16259AKAD01

09/13/2016 Motion-Compel  
This action initiated by party Tamra J Bailey  
RE: Discovery / RT  
10 06 16 1130am CR 505  
Image ID N162571E4D01

05/25/2016 Notice-Service  
This action initiated by party Tamra J Bailey  
RE: Interrogatories & Requests / RT  
Image ID N16146NFCD01

05/18/2016 Order-Consolidation  
This action initiated by James T Gleason  
CI 15 10140 / RT eNotice Certificate Attached  
Image ID 001314184D01

05/13/2016 Case Manually Assigned  
Previous Judge 20767; New Judge 11523; User ID C0126003  
Consolidation with CI 15 10140

05/12/2016 Stipulation  
  
This action initiated by party Tamra J Bailey  
RE: To Consolidate JOINT / RT  
CI 15 10140  
Image ID N16133BD0D01

04/28/2016 Case Judge Reassigned Random  
Previous Judge 13170; New Judge 20767; User ID C0126002

03/22/2016 Notice-Service  
This action initiated by party Tamra J Bailey  
re: ans interrog & resp req prod docs jm  
Image ID N16082URGD01

03/22/2016 Motion-Consolidation  
This action initiated by party Tamra J Bailey  
4-28-16 #414 9:00 AM jm  
  
Image ID N16082UPMD01

01/11/2016 Answer  
This action initiated by party M.B.C. Construction Co., Inc.  
kr  
Image ID N16011BDKD01

12/16/2015 Return Summons/Alias Summons  
The document number is 00358150  
Served 12/14/2015, Douglas County Sheriff  
Personal Service  
Image ID 001238801D01

12/11/2015 Summons Issued on M.B.C. Construction Co., Inc.  
The document number is 00358150  
Image ID D00358150D01

12/10/2015 Praecipe-Summons/Alias  
This action initiated by party Tamra J Bailey  
MM  
Image ID N15344PR8D01

11/23/2015 Summons Issued on M.B.C. Construction Co., Inc.  
The document number is 00354807  
summons e-mailed

Image ID D00354807D01

11/23/2015 Complaint-Praecipe  
This action initiated by party Tamra J Bailey  
s1  
Image ID N153270NCD01

### Judges Notes

10/13/2016  
10-13-2016 Gleason  
Signed Order.

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TAMRA J. BAILEY,	)	CASE NO. CI 15 - _____
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	
M.B.C. CONSTRUCTION CO., INC.,	)	
A NEBRASKA CORPORATION	)	
	)	
Defendant.	)	

COMES NOW, Plaintiff Tamara J. Bailey, by and through her undersigned attorneys and for her cause of action against Defendant M.B.C. Construction Co., Inc., a Nebraska Corporation, states and alleges as follows:

**PARTIES**

1. Plaintiff was at all times relevant hereto a resident of Omaha, Douglas County, Nebraska.
2. Defendant was at all times relevant hereto a Nebraska Corporation, doing business in Omaha, Douglas County, Nebraska.

**JURISDICTION AND VENUE**

3. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.
4. The events that gave rise to this action occurred in Omaha, Douglas County, Nebraska, and accordingly, venue is proper pursuant to Neb. Rev. Stat. § 25-403.01.

**FACTS**

5. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.

6. On or about August 10, 2013, Plaintiff was a restrained operator of a vehicle heading southbound on 96<sup>th</sup> Street at the intersection of 96<sup>th</sup> Street and Adams Street in Omaha, Douglas County, Nebraska, in a 1999 Pontiac Grand Prix. Plaintiff proceeded to travel southbound on 96<sup>th</sup> Street when she suddenly became aware that the lane in which she was travelling was unfinished and included a drop off in the pavement. About that same time, she also became aware that her path of travel was blocked by a large piece of construction equipment which had been left in the middle of the lane. She attempted to stop to avoid the drop off at the end of the pavement and to avoid a collision with the Defendant's unmarked construction equipment. Plaintiff was unable to stop her vehicle and continued to drive off the unfinished road and struck the Defendant's unmarked construction equipment, causing Plaintiff to sustain personal injuries.

#### CAUSE OF ACTION – NEGLIGENCE

7. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.

8. Defendant, as the road construction contractor on the 96<sup>th</sup> Street road construction project, was responsible for the construction work zone at the time of Plaintiff's accident and had a duty to take appropriate precautions to prevent vehicle traffic accidents within the construction work zone.

9. Defendant failed to use reasonable care to make 96<sup>th</sup> Street safe or provide adequate warning, and Defendant knew or with the exercise of reasonable ordinary care, should have known, that the condition in which 96<sup>th</sup> Street was left on the day of Plaintiff's accident, created a hazard that was manifestly unsafe and dangerous to passing traffic.

10. The sole proximate cause of said collision and resulting injuries and damages to Plaintiff was the negligence of Defendant which existed in the following particulars and each of them:

- a. In failing to ensure that all construction practices on the day of Plaintiff's accident were safe according to industry standards.
- b. In leaving a road construction paving machine parked in the dirt at the end of the new paving surface drop off point, thereby creating an unreasonably dangerous situation presenting a public traffic vehicle impact accident hazard;
- c. In failing to place appropriate barriers, warning signs or lighting within the active construction paving work zone, thereby placing public traffic at significant risk of a construction work zone equipment impact accident;
- d. In failing to install proper traffic routing around the active construction paving work zone, thereby placing public traffic at significant risk of a construction work zone equipment impact accident;
- e. In failing to place flashing road safety warning lighting or reflective tape or markings on the stationary paving machine in the night-time darkness on a street with little or no ambient street lighting, thereby increasing the safety visibility risk factors.
- f. In failing to exercise reasonable care and failing to adequately supervise and inspect the construction activity and construction zone.

#### DAMAGES

11. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.

12. As a direct and proximate result of Defendant's negligence, Plaintiff sustained the following damages:

- a. Medical expenses in the approximate amount of \$86,536.35, itemized as follows:

Anesthesia West	\$2,016.00
Nebraska Orthopedic Hospital	\$16,734.79
Orthowest	\$9,224.50

Radiologic Center	\$654.00
Nebraska Medicine	\$3,046.61
Methodist Hospital	\$42,905.45
Methodist Physicians Clinic	\$11,589.00
California Advanced Imaging	\$153.00
Midwest Regional Health Services	<u>\$213.00</u>
<b>TOTAL</b>	<b><u>\$86,536.35</u></b>

- b. Permanent injury – NJI2nd §4.01(1);
- c. Disability in the past and future – NJI2nd §4.01(1);
- d. Medical care and expenses in the past and future – NJI2nd §4.01(2);
- e. Lost working time-NJI2nd §4.01(3);
- f. Loss of future earning capacity – NJI2nd §4.01(4);
- g. Physical pain, mental suffering, and emotional distress in the past, and it is reasonably certain that she will sustain physical pain, mental suffering and emotional distress in the future – NJI2nd §4.01(5); and,
- h. Inconvenience in the past and future – Neb. Rev. Stat. §25-21,185.08.

13. These injuries have caused Plaintiff to experience physical and mental pain and discomfort and have required Plaintiff to undergo protracted medical treatment and will require future medical treatment.

14. At the time of the collision, Plaintiff was forty-seven (47) years of age, in good health and had a life expectancy of thirty-four (34.47) years.

WHEREFORE, Plaintiff, on her cause of action, prays for judgment against the Defendant for present special damages in the amount of \$86,536.35, future special damages, general damages, additional amounts which will fairly and adequately compensate Plaintiff for her inju-



ries, past and future pain and suffering, loss of household services, present lost wages, future lost wages, lost earning capacity, prejudgment interest, costs of this action, attorney's fees, and further relief that the Court deems just and equitable.

DATED this 19 day of November, 2015.

TAMRA J. BAILEY, Plaintiff,

BY 

\_\_\_\_\_  
GREG ABBOUD, #17232  
ABBOUD LAW FIRM  
6530 South 84<sup>th</sup> Street  
Omaha, NE 68127  
Phone: (402) 592-5555  
Facsimile: (402) 331-4569

ATTORNEYS FOR PLAINTIFF

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TAMRA J. BAILEY,	)	CASE NO. CI 15 - _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>PRAECIPE</b>
	)	
M.B.C. CONSTRUCTION CO., INC.,	)	
A NEBRASKA CORPORATION,	)	
	)	
Defendant.	)	

TO THE CLERK OF SAID COURT:

PLEASE ISSUE a Summons to be served, along with a copy of the Complaint, by the Douglas County Sheriff personnel PERSONALLY upon the Defendant, M.B.C. CONSTRUCTION CO., INC., to its registered agent A. Roger Stueckrath, 3108 South 67<sup>th</sup> Avenue, Omaha, NE 68106.

DATED this 23<sup>rd</sup> day of November, 2015.

TAMRA J. BAILEY, Plaintiff,

BY /s/ Greg Abboud  
GREG ABBOUD, #17232  
ABBOUD LAW FIRM  
6530 South 84<sup>th</sup> Street  
Omaha, NE 68127  
Phone: (402) 592-5555  
Facsimile: (402) 331-4569

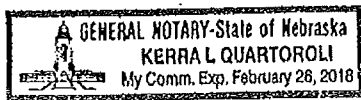
ATTORNEYS FOR PLAINTIFF


STATE OF NEBRASKA    )  
                                  ) SS.  
COUNTY OF DOUGLAS    )

TAMRA J. BAILEY, being first duly sworn on oath, deposes and states that she is the Plaintiff in the foregoing action; that she has read the above Complaint, knows the contents thereof, and that the statements therein contained are true.

  
TAMRA J. BAILEY

SUBSCRIBED AND SWORN to before me this 19 day of November, 2015.



  
Notary Public

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TAMRA J. BAILEY,	)	CASE NO. CI 15-10139
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
M.B.C. CONSTRUCTION CO., INC.,	)	
A Nebraska Corporation,	)	
	)	
Defendant.	)	JOINT STIPULATION TO
	)	CONSOLIDATE
_____	)	
	)	
TONY SHARP,	)	CASE NO. CI 15-10140
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
M.B.C. CONSTRUCTION CO., INC.,	)	
A Nebraska Corporation,	)	
	)	
Defendant.	)	

COMES NOW, the Plaintiffs, Tamra J. Bailey and Tony Sharp, by and through their attorney of record, Greg Abboud and the Defendant by and through its attorney of record, Aimee Bataillon, and request that this Court grant an Order to consolidate this action with the action indexed at *Tony Sharp v. M.B.C. Construction, A Nebraska Corporation*, indexed at CI 15-10140. In support of this motion, the parties show to the Court that these actions arise from identical facts and involve the parties to the first action. The Plaintiffs were the driver and passenger of a motor vehicle involved in a collision with the Defendant. Therefore, consolidation of these actions for discovery and trial is appropriate.

DATED this 12 day of May, 2016.

TAMRA J. BAILEY and TONY  
SHARP, Plaintiffs,

BY: /s/ Greg Abboud  
Greg Abboud, #17232  
FOR: Abboud Law Firm  
6530 S. 84<sup>th</sup> St.  
Omaha, NE 68127  
Phone: 402-592-5555  
Fax: 402-331-4569  
E-mail: [greg@abboudlawfirm.com](mailto:greg@abboudlawfirm.com)

Attorneys for Plaintiffs

M.B.C. CONSTRUCTION, A Nebraska  
Corporation, Defendant

BY: /s/ Aimee Bataillon  
Aimee Bataillon, #22190  
FOR: Woodke & Gibbons, PC  
Historic Inns of Court Building  
619 N. 90<sup>th</sup> St.  
Omaha, NE 68114  
Phone: (402) 391-6000  
Fax: (402) 391-6200  
E-mail: [abataillon@woglaw.com](mailto:abataillon@woglaw.com)  
Attorneys for Defendant

## Certificate of Service

I hereby certify that on Friday, May 13, 2016 I provided a true and correct copy of the Stipulation to the following:

M.B.C. CONSTRUCTION CO., INC., represented by Aimee Bataillon (Bar Number: 22190) service method: Electronic Service to abataillon@woglaw.com

M.B.C. CONSTRUCTION CO., INC., represented by Woodke,David,M (Bar Number: 15211) service method: Electronic Service to dwoodke@woglaw.com

Bailey,Tamra,J represented by Kathleen Person (Bar Number: 19884) service method: Electronic Service to kperson@abboudlawfirm.com

Signature: /s/ Gregory R Abboud (Bar Number: 17232)

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TAMRA J. BAILEY,	)	CASE NO. CI 15-10139
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
M.B.C. CONSTRUCTION CO., INC.,	)	
A Nebraska Corporation,	)	
	)	
Defendant.	)	JOINT STIPULATION TO
	)	CONSOLIDATE
	)	
_____	)	
TONY SHARP,	)	CASE NO. CI 15-10140
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
M.B.C. CONSTRUCTION CO., INC.,	)	
A Nebraska Corporation,	)	
	)	
Defendant.	)	

COMES NOW, the Plaintiffs, Tamra J. Bailey and Tony Sharp, by and through their attorney of record, Greg Abboud and the Defendant by and through its attorney of record, Aimee Bataillon, and request that this Court grant an Order to consolidate this action with the action indexed at *Tony Sharp v. M.B.C. Construction, A Nebraska Corporation*, indexed at CI 15-10140. In support of this motion, the parties show to the Court that these actions arise from identical facts and involve the parties to the first action. The Plaintiffs were the driver and passenger of a motor vehicle involved in a collision with the Defendant. Therefore, consolidation of these actions for discovery and trial is appropriate.

DATED this 12 day of May, 2016.

TAMRA J. BAILEY and TONY  
SHARP, Plaintiffs,

BY: /s/ Greg Abboud  
Greg Abboud, #17232  
FOR: Abboud Law Firm  
6530 S. 84<sup>th</sup> St.  
Omaha, NE 68127  
Phone: 402-592-5555  
Fax: 402-331-4569  
E-mail: [greg@abboudlawfirm.com](mailto:greg@abboudlawfirm.com)

Attorneys for Plaintiffs

M.B.C. CONSTRUCTION, A Nebraska  
Corporation, Defendant

BY: /s/ Aimee Bataillon  
Aimee Bataillon, #22190  
FOR: Woodke & Gibbons, PC  
Historic Inns of Court Building  
619 N. 90<sup>th</sup> St.  
Omaha, NE 68114  
Phone: (402) 391-6000  
Fax: (402) 391-6200  
E-mail: [abataillon@jvoglaw.com](mailto:abataillon@jvoglaw.com)  
Attorneys for Defendant



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M.B.C. CONSTRUCTION CO., INC., represented by Aimee Bataillon (Bar Number: 22190)  
service method: Electronic Service to abataillon@woglaw.com

M.B.C. CONSTRUCTION CO., INC., represented by Woodke,David,M (Bar Number:  
15211) service method: Electronic Service to dwoodke@woglaw.com

Bailey,Tamra,J represented by Kathleen Person (Bar Number: 19884) service method:  
Electronic Service to kperson@abboudlawfirm.com

Signature: /s/ Gregory R Abboud (Bar Number: 17232)