



001543163D01

DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

PROGRESSIVE MICHIGAN )  
INSURANCE COMPANY a/s/o )  
Jeyhun Gurbanov, )  
) )  
Plaintiff, )  
) )  
vs. )  
) )  
OMAHA TRUCK CENTER INC; )  
) )  
Defendant. )  
) )  
) )  
) )  
) )  
) )

Case No.: CI17-6863

COMPLAINT

ASSIGNED TO Dougherty

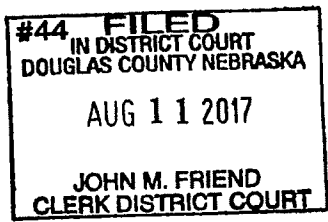
NOW COMES Plaintiff Progressive Michigan Insurance Company a/s/o Jeyhun Gurbanov, by and through its counsel YOST & BAILL, LLP, and for its Complaint states as follows:

JURISDICTION & VENUE

1. This court has jurisdiction over this action pursuant to NEB. REV. STAT. § 25-536.
2. Venue is proper within Douglas County pursuant to NEB. REV. STAT. § 25-403.01(1), as the Defendant resides in Douglas County.

PARTIES

3. Progressive Michigan Insurance Company (hereinafter "Progressive"), is a foreign insurance corporation, duly authorized to conduct business within the State of Nebraska, with a principal place of business located at 46333 Five Mile Road, Suite 100, Plymouth, MI, 48170.



4. At all times relevant, Jeyhun Gurbanov (hereinafter "Gurbanov") held a policy of insurance with Progressive, which provided amongst other items, coverage for damage his 2012 Freightliner Cascadia, VIN 1FUJGLDR8CSBJ3709 (hereinafter "the truck").

5. At all times relevant, Defendant Omaha Truck Center Inc. (hereinafter "Omaha Truck"), was corporation engaged in the truck repair business and duly organized under the laws of the State of Nebraska with a principle place of business at 10550 I Street, Omaha, NE 68127, and a registered agent at 1125 South 103<sup>rd</sup> Street, Suite 800, Omaha, NE 68124.

#### FACTS

6. On or about June 29, 2015, Gurbanov brought the truck into Omaha Truck for repairs, including but not limited to work on the fuel lines.

7. On or about, August 11, 2015, Gurbanov was operating the truck in the manner for which it was designed in Mt. Airy, North Carolina when the engine of the truck caught fire. Gurbanov pulled over and jumped out of the truck injuring himself. Several moments later, the one of the truck's tanks exploded.

8. As a direct and proximate result of the above-referenced incident, Progressive became obligated to pay an amount in excess of \$75,000.00, in satisfaction of property damage, personal injury and/or other claims arising under its insurance policy with Gurbanov.

9. By virtue of said payment, Plaintiff is subrogated to the rights of Gurbanov, in an amount in excess of \$75,000.00.

**COUNT ONE – NEGLIGENCE**

10. Progressive incorporates by reference paragraphs 1 through 9, as set forth hereinabove.

11. The fire referred to above and the resulting damages were caused by the negligence, carelessness, and/or negligent omissions of the defendant, through its servants and/or employees, acting within the scope of their employment, in:

- (a) Failing to properly hire, train, and supervise subcontractors, representatives, agents, and/or employees to ensure that proper and safe means and methods were used in their work on the truck;
- (b) Failing to observe safe and effective practices in performing repair, installation, and/or testing of the fuel lines of the truck;
- (c) Failing to follow generally accepted industry standards and practices;
- (d) Failing to apply the degree of skill which would customarily be brought to the work by competent and skilled mechanics in the industry;
- (e) Failing to perform the work in a good and workmanlike manner;
- (f) Otherwise failing to act with due care under the circumstances.

12. As a result of the aforementioned negligence, carelessness and/or negligent omissions of Defendant, Progressive sustained substantial damage and financial loss.

**COUNT TWO - BREACH OF EXPRESSED OR IMPLIED WARRANTIES**

13. Plaintiff incorporates by reference paragraphs 1 through 12, as set forth hereinabove.

14. By its foregoing conduct, Defendant breached its implied warranty that its services would be performed in a good and workmanlike manner, and in accordance with applicable codes, standards, manufacturer's recommendations, and practices, resulting in the fire and subsequent damages.

15. The Defendant's breach of these warranties was the legal cause of the damages sustained by Progressive.

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

1. For compensatory, general, and special damages in an amount to be determined;
2. Prejudgment interest at the maximum lawful rate;
3. Post-judgment interest;
4. Plaintiff's costs and disbursements in having to bring this action;
5. Plaintiff's attorney fees; and,
6. For such other and further relief for which Plaintiff may prove justly entitled.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL ISSUES SO TRIABLE

Date: 7/31/17

Respectfully submitted,

By 

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*ATTORNEYS FOR PLAINTIFF*