

ENDORSED  
FILED  
SAN FRANCISCO COUNTY  
SUPERIOR COURT

14 MAY 13 AM 1:11

ELIAS BUTT

1 Joseph P. Brent, Esq. [SBN 214459]  
(JBrent@bfnlaw.com)  
2 R. Wesley Pratt, Esq. [SBN 191159]  
(WPratt@bfnlaw.com)  
3 BRENT, FIOL & NOLAN LLP  
One Embarcadero Center, Suite 2860  
4 San Francisco, CA 94111  
Telephone: (415) 259-4515  
5 Facsimile: (415) 373-4420

6 Attorneys for Plaintiff  
Patrice Renee Motley

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SAN FRANCISCO

BRENT,  
FIOL &  
NOLAN  
LLP

11 PATRICE RENEE MOTLEY,  
12 Plaintiff,

13 vs.

14 NIRAV NALIN TOLIA, and DOES 1 to 50,  
15 Inclusive,  
16 Defendants.

CASE NO. **CGC-14-539263**

COMPLAINT FOR DAMAGES  
[Negligence (Motor Vehicle) and  
Intentional Infliction of Emotional  
Distress]

DEMAND FOR JURY TRIAL

19  
20 Plaintiff, Patrice Renee Motley, alleges as follows:

21 **I. THE PARTIES**

22  
23 1. Plaintiff Patrice Renee Motley (hereinafter "Plaintiff" or "Ms. Motley") is a  
24 competent adult over the age of 18 and a resident of the City and County of San Francisco.

25 2. Defendant Nirav Nalin Tolia (hereinafter "defendant" or "Mr. Tolia") is a  
26 competent adult over the age of 18 and lives at 2775 Vallejo Street, San Francisco, California,  
27 94123 within the boundaries of the City and County of San Francisco, California.  
28

RECEIVED  
SAN FRANCISCO COUNTY  
SUPERIOR COURT

14 MAY 13 AM 1:11

000-1-1-000

BRENT,  
FIOL &  
NOLAN  
LLP

1           3. Defendants DOES 1 through 50, inclusive, are sued herein under fictitious names  
2 because their true names, involvement, and capacities, whether individual, associate, corporate or  
3 governmental, are not now known to plaintiff; plaintiff is informed and believes and upon such  
4 information and belief alleges that each of the said defendants is negligent and responsible or  
5 vicariously negligent and responsible under theories of agency in some manner for the events  
6 herein alleged, either as agents, employers, supervisors, or otherwise, and said defendants  
7 negligently acted or failed to act in one or more of said occupations or businesses, which  
8 negligence proximately and legally caused the injuries and damages hereinafter set forth. Plaintiff  
9 is uncertain as to the manner or function of said defendants, whether as agents, employers,  
10 supervisors, or otherwise, and plaintiff will ask leave to amend this Complaint to insert same  
11 herein, when such names, capacities, functions, occupations and businesses of said defendants  
12 have been more fully ascertained.

13           4. At all times herein mentioned, each defendant was the agent and employee of the  
14 other defendants in the commission of the acts herein alleged, and was acting in the course and  
15 scope of his/her/its authority as such agent and employee and with the permission and consent of  
16 all defendants.

17           5. Whenever reference is made in this complaint to any act of defendants, such  
18 allegation shall mean that each defendant acted individually and jointly with the other defendants.

19 **II. VENUE & JOINDER**

20           6. Venue in this action is proper in the County of San Francisco based upon the fact  
21 that Mr. Tolia's residence is within the jurisdictional limits of the San Francisco Superior Court  
22 and venue is therefore proper in San Francisco pursuant to law, including but not limited to Code  
23 of Civil Procedure section 395.

24 **III. COMMON ALLEGATIONS**

25           7. On Sunday, August 4, 2013, Patrice Motley was driving home to San Francisco on  
26 Northbound Highway 101 through the City of Brisbane, in San Mateo County, California.  
27  
28

1           8.       At all relevant times, Patrice Motley was operating a Honda Del Sol, a smaller  
2 sized compact car. She was driving in the number three lane, i.e. third lane from the left and  
3 lawfully within the speed limit. She also had a passenger in her vehicle as well as her Bichon Frise  
4 dog.

5           9.       At all relevant times, Mr. Tolia was operating a black BMW X5 SUV on  
6 Northbound Highway 101. He was traveling with his wife, Megha Trivedi Tolia (hereinafter "Mrs.  
7 Tolia"), and his child in the number two lane at a high rate of speed. Impatient to overtake a  
8 slower vehicle in front of him, Mr. Tolia tried to pass the car by moving into and invading the  
9 right lane, i.e. the number three lane.

10          10.       Ms. Motley already occupied the number three lane.

11          11.       Mr. Tolia failed to see that Ms. Motley was already driving in the number three  
12 lane, and he maneuvered his much larger SUV into Ms. Motley's lane in an unsafe and unlawful  
13 manner.

14          12.       Even though Ms. Motley honked her horn as he was making the unsafe lane  
15 change, Mr. Tolia did not notice Ms. Motley until his wife, Megha Trivedi Tolia, alerted him to  
16 the fact that he had invaded the lane of another car and was about to collide with Ms. Motley.

17          13.       Mr. Tolia then maneuvered his BMW X5 SUV back into his own lane.  
18 Unfortunately for Ms. Motley, Mr. Tolia had already started the chain of events that would lead to  
19 a motor vehicle crash and Ms. Motley's serious personal and emotional injuries.

20          14.       Due to Mr. Tolia's unsafe operation of his vehicle, Ms. Motley was forced to  
21 engage in defensive driving maneuvers to avoid a collision on the highway.

22          15.       Ms. Motley lost control of her car, spun 180 degrees, crossed two lanes of highway  
23 traffic, hit the concrete median, and came to rest partially in the fast lane of traffic and partially on  
24 the shoulder with cars speeding directly at her.

25          16.       Mr. and Mrs. Tolia both witnessed Ms. Motley lose control of her car. Both were  
26 aware that Mr. Tolia's negligent driving triggered events that caused a motor vehicle to lose  
27 control and spin off of the highway. However, instead of pulling over, instead of making a 911  
28

BRENT,  
FIOL &  
NOLAN  
LLP

1 emergency call for help, instead of stopping to see if Ms. Motley, her passenger, or her dog were  
2 injured or even alive, Mr. and Mrs. Tolia fled the scene and disappeared.

3 17. The Tolias unsuccessfully gambled that no one had taken down their license plate  
4 number.

5 18. However, several eyewitnesses observed Mr. Tolia's unsafe lane change, and also  
6 saw him flee the scene of an accident. Eyewitnesses passed the Tolias' license plate number along  
7 to the authorities. The police tracked the Tolias down at their home in Pacific Heights at 2775  
8 Vallejo Street, San Francisco, on the evening of August 4, 2013.

9 19. Once confronted by law enforcement, both Mr. and Mrs. Tolia admitted to the  
10 police that they had left the scene of an accident without stopping, calling for help, and  
11 exchanging information as required by law.

12 20. Mr. Tolia told the police that he fled because he was "shaken."

13 21. Mr. Tolia also told the investigating officer that he did not call 911 because he was  
14 in "shock."

15 22. The investigating police officer recommended that his report be forwarded to the  
16 San Mateo District Attorney's office for "review and prosecution" of Mr. Tolia for felony hit and  
17 run with injuries. (California Vehicle Code section 20001(a)).

18 23. Plaintiff was severely injured in the incident. Her injuries include but are not  
19 limited to two fractures in her left hand, neck and back injuries, and emotional damages. Ms.  
20 Motley has suffered both special and general damages in an amount to be proven at trial.

21 **IV. FIRST CAUSE OF ACTION: NEGLIGENT OPERATION OF A MOTOR**  
22 **VEHICLE**

23 24. Plaintiff realleges and incorporates by reference paragraphs 1 through 23 set forth  
24 above as if fully set forth herein.

25 25. On or about August 4, 2013, defendant, Nirav Nalin Tolia, and Doe Defendants 1  
26 through 50, and each of them, owed plaintiff a duty of care in operating and controlling the vehicle  
27 driven by Mr. Tolia.

28

BRENT.  
FIOL &  
NOLAN  
LLP

1           26.     Additionally, defendants owed plaintiff a duty based on the requirements of Section  
2 1714 of the Civil Code requiring all persons to act in a reasonable manner toward others.

3           27.     At all relevant times, defendants, and each of them, breached their duty of care in  
4 that they: (a) made an unsafe lane change; (b) failed to yield the right of way to plaintiff; (c) drove  
5 at a speed greater than reasonable or prudent; (d) drove at a speed that endangered the safety of  
6 plaintiff; (e) failed to keep a proper lookout while operating and controlling the vehicle; (g) failed  
7 to operate his vehicle as nearly as practical entirely within a single lane and he moved from his  
8 lane without due and reasonable safety; (h) attempted to pass and/or overtake another vehicle on  
9 the right without the ability to do so in a reasonably safe manner; (i) violated various sections of  
10 the motor vehicle code including sections 21750 and 21658(a); and (h) otherwise failed to use  
11 reasonable care in operating and controlling the vehicle.

12           28.     As a proximate result of the aforementioned breach of duty, plaintiff was severely  
13 injured.

14 **V.     SECOND CAUSE OF ACTION: INTENTIONAL INFLICTION OF EMOTIONAL**  
15 **DISTRESS**

16           29.     Plaintiff realleges and incorporates by reference paragraphs 1 through 28 set forth  
17 above as if fully set forth herein.

18           30.     Mr. Tolia intentionally and/or recklessly caused Patrice Motley to experience  
19 extreme emotional distress because his conduct after causing the accident was outrageous. He fled  
20 the scene after watching Ms. Motley to lose control of her vehicle because of his negligent driving.  
21 He failed to notify emergency services or the police about the accident he caused. Mr. Tolia fled  
22 the scene of the accident in the hopes that he would not be held accountable for his negligent  
23 driving and for causing a potentially fatal accident.

24           31.     Flight is a consciousness of guilt.

25           32.     The California legislature has declared that fleeing the scene of an accident  
26 resulting in an injury is so outrageous that it should be criminal. Section 20001(a) of the Vehicle  
27 Code states: "The driver of a vehicle involved in an accident resulting in injury to a person, other  
28 than himself or herself, or in the death of a person shall immediately stop the vehicle at the scene

1 of the accident and shall fulfill the requirement of Section 20003 and 20004." Section 20003  
2 requires a motorist involved in an accident to stay at the scene and provide identifying information  
3 to the injured person as well as to the police. Additionally, the person involved in the incident is  
4 obligated to render assistance including making arrangements for medical care. Cal. Vehicle Code  
5 §20003.

6 33. Mr. Tolia acted intentionally and/or with reckless disregard for the probability that  
7 Ms. Motley would suffer emotional distress by fleeing the scene, and leaving her on the side of  
8 Highway 101 in a disabled vehicle, injured, and with traffic speeding toward her. She was totally  
9 helpless and in a potentially fatal situation. However, Mr. Tolia was concerned only with his own  
10 well-being and not about Ms. Motley or anyone in her vehicle.

11 34. Patrice Motley suffered severe emotional distress as a result of Mr. Tolia's conduct.

12 35. Mr. Tolia's conduct was a substantial factor in causing the plaintiff's severe  
13 emotional distress.

14 WHEREFORE, Plaintiff prays for a judgment against defendants, and each of them, as  
15 follows:

- 16 a. For special damages, including but not limited to all past and future wages loss, and  
17 hospital and medical expenses in an amount in accordance with proof;
- 18 b. For general damages according to proof;
- 19 c. For punitive damages;
- 20 d. For attorney's fees and costs in accordance with proof; and
- 21 e. For any other order and relief deemed reasonable and just.

22 Dated: May 13, 2014

BRENT, FIOI. & NOLAN LLP

23  
24  
25 By:   
26 Joseph P. Brent, Esq.  
27 Attorneys for Plaintiff  
28 PATRICE RENEE MOTLEY

DEMAND FOR JURY TRIAL

Plaintiff Patrice Renee Motley hereby demands a trial by jury.

Dated: May 13, 2014

BRENT, FIOL & NOLAN LLP

By: 

Joseph P. Brent, Esq.

Attorneys for Plaintiff

PATRICE RENEE MOTLEY

BRENT,  
FIOL &  
NOLAN  
LLP