

FILED  
Court of Appeals  
Division II  
State of Washington  
IN THE COURT OF APPEALS  
6/7/2019 3:11 PM  
OF THE STATE OF WASHINGTON  
DIVISION II

---

**REBEKAH L. HART, individually,  
Appellant,**

**vs.**

**EMILY PRATHER and "JOHN DOE" PRATHER, individually and the marital  
community comprised thereof; PARKER J. KNAUER, individually, STEVEN  
KNAUER AND PAMILA KNAUER, individually and the marital community  
comprised thereof; BRAYDEN STANTON and "JANE DOE" STANTON,  
individually and the marital community comprised thereof;**

**Respondents,**

**and**

**NATHAN BARNES and "JANE DOE" BARNES, individually and the marital  
community comprised thereof,**

**Defendants,**

**and**

**TODD EVANS and "JANE DOE" EVANS, individually and the marital community  
comprised thereof; and ERIC NELSON and "JANE DOE" NELSON, individually  
and the marital community comprised thereof,**

**Respondents,**

**and**

**BRITTANY POWELL,**

**Defendant.**

---

**APPEAL FROM PIERCE COUNTY SUPERIOR COURT  
Honorable Kathryn J. Nelson, Judge**

---

**BRIEF OF RESPONDENTS STANTON AND EVANS**

---

**Address:  
1215 Fourth Avenue, Suite 1700  
Seattle, WA 98161-1087  
(206) 292-4900**

**524 Tacoma Avenue South  
Tacoma WA 98402  
(253) 383-4704**

**REED McCLURE  
By Suzanna Shaub WSBA #41018  
Attorneys for Respondent Stanton**

**CROWLEY & KAY, INC. PS  
BY Karen M. Kay WSBA #36765  
Attorneys for Respondent Evans**

## TABLE OF CONTENTS

	Page
<b>I. NATURE OF THE CASE.....</b>	<b>1</b>
<b>II. ISSUE PRESENTED.....</b>	<b>2</b>
<b>III. STATEMENT OF THE CASE.....</b>	<b>2</b>
<b>A. STATEMENT OF RELEVANT FACTS.....</b>	<b>2</b>
<b>B. STATEMENT OF PROCEDURE.....</b>	<b>2</b>
<b>IV. ARGUMENT.....</b>	<b>4</b>
<b>A. STANDARD OF REVIEW.....</b>	<b>4</b>
<b>B. DEFENDANTS STANTON AND EVANS AGREE THE TRIAL COURT ERRED BY FAILING TO ENTER JUDGMENT ON THE JURY VERDICT JOINTLY AND SEVERALLY BECAUSE PLAINTIFF WAS NOT AT FAULT.....</b>	<b>5</b>
<b>V. CONCLUSION.....</b>	<b>5</b>

## TABLE OF AUTHORITIES

### Washington Cases

	<b>Page</b>
<i>Afoa v. Port of Seattle</i> , 191 Wn.2d 110, 421 P.3d 903 (2018) .....	4, 5
<i>Jongeward v. BNSF Ry. Co.</i> , 174 Wn.2d 586, 278 P.3d 157 (2012).....	4
<i>State v. Breazeale</i> , 144 Wn.2d 829, 31 P.3d 1155 (2001) .....	4, 5

### Statutes

RCW 4.22.070 .....	4
RCW 4.22.070(1)(b).....	4

063060.0000411028396

## I. NATURE OF THE CASE

This case arises from four motor vehicle accidents in which Appellant Rebekah L. Hart (Plaintiff below and herein “Plaintiff”) was involved. Plaintiff brought this negligence action against Respondents (Defendants below) Prather, Knauer, Stanton, Barnes, Evans, Nelson, Barker, and Powell for personal injuries. After a nearly seven-week trial, the jury returned a verdict in Plaintiff’s favor. The trial court entered judgments on the jury verdict against Defendants Prather, Knauer, Stanton, Evans, and Barker.<sup>1</sup> Over objection by Plaintiff and Defendants Stanton and Evans, the trial court determined that the defendants against whom judgment was entered were severally – but not jointly – liable for Plaintiff’s damages.

In her appeal, Plaintiff identifies 12 Assignments of Error. Defendant Stanton responds only to Assignment of Error 1 and agrees that the trial court erred in ruling that the defendants against whom judgment was entered were not jointly and severally liable.

---

<sup>1</sup> Defendant Barnes was dismissed prior to trial. (CP 389) The trial court dismissed Defendant Powell on a motion for directed verdict. (CP 2393) The jury determined Defendant Nelson’s negligence was not a proximate cause of Plaintiff’s injuries. (CP 2560)

## **II. ISSUE PRESENTED**

Whether the trial court erred ruling that the defendants against whom judgment was entered were not jointly and severally liable for Plaintiff's damages when Plaintiff was not at fault for any of the subject collisions.

## **III. STATEMENT OF THE CASE**

### **A. STATEMENT OF RELEVANT FACTS.**

Plaintiff was involved in a motor vehicle accident on March 1, 2009, involving Defendants Prather and Knauer. Plaintiff was driving. (CP 995)

Plaintiff was subsequently in a second collision nearly ten months later on December 22, 2009, in which she was a passenger in a vehicle left in the care of Defendant Evans by Barnes and driven by Defendant Stanton. (CP 995-96)

Plaintiff was then involved in a third collision with Defendant Barker on April 7, 2013. (CP 996)

Finally, Plaintiff was in fourth car accident on March 22, 2014, in which Plaintiff was a passenger in a vehicle driven by Defendant Powell. (CP 996-97)

### **B. STATEMENT OF PROCEDURE.**

Plaintiff filed the subject lawsuit against Defendants Stanton and Evans and the other defendants for personal injuries she claims to have

sustained in the four motor vehicle accidents. The lawsuit named Defendants Prather, Knauer, Stanton, Barnes, Evans, Nelson, Barker, and Powell. (CP 992-1001)

Trial commenced on January 8, 2018. Nearly seven weeks later, on February 22, 2018, the jury returned a verdict in Plaintiff's favor against Prather, Knauer, Stanton, Evans, and Barker. (CP 2559-62, 2578-2620)

The jury determined Defendants Prather/Knauer were negligent in causing the March 1, 2019, accident. It did not allocate any fault for the accident to Plaintiff. (CP 2559-62)

The jury also found that Defendants Stanton's and Evans' negligence in the December 22, 2009, accident proximately caused Plaintiff's injuries. It also determined that Defendant Nelson's negligence was not a proximate cause of Plaintiff's injuries. Plaintiff, as a passenger, was not at fault. (CP 2559-62)

Defendant Barker admitted liability for the third collision which occurred on April 7, 2013. (9 RP 1538:6-8)

The trial court dismissed Defendant Powell on a motion for directed verdict at the close of evidence. (CP 2393)

At a post-trial hearing, the trial court entered judgment against the at-fault defendants Prather, Knauer, Stanton, Evans, and Barker. Over objection from Plaintiffs and Defendants Stanton and Evans, the trial court

determined that liability of the defendants against whom judgment was entered was several only. (28 RP 4439-58; CP 2721-23, 2731-33, 2734-41)

Plaintiff then moved for a new trial, which the trial court denied. (CP 2749-2957, 3058-62) Subsequently, Plaintiff appealed to this Court. (CP 3032-65)

#### IV. ARGUMENT

##### A. STANDARD OF REVIEW.

The question this Court must answer is whether the trial court erred in refusing to find the at-fault defendants jointly and severally liable pursuant to RCW 4.22.070, which provides in relevant part:

The liability of each defendant shall be several only and shall not be joint except:

....

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the claimant's total damages.

RCW 4.22.070(1)(b).

Interpretation of a statute and its application to a set of facts are questions of law. *Afoa v. Port of Seattle*, 191 Wn.2d 110, 119, 421 P.3d 903 (2018) (citing *Jongeward v. BNSF Ry. Co.*, 174 Wn.2d 586, 592, 278 P.3d 157 (2012) (citing *State v. Breazeale*, 144 Wn.2d 829, 837, 31 P.3d

1155 (2001))). This Court reviews issues of statutory interpretation and alleged errors of law *de novo*. *Id.*

**B. DEFENDANTS STANTON AND EVANS AGREE THE TRIAL COURT ERRED BY FAILING TO ENTER JUDGMENT ON THE JURY VERDICT JOINTLY AND SEVERALLY BECAUSE PLAINTIFF WAS NOT AT FAULT.**

For the reasons set forth in Appellant's Opening Brief, Defendants Stanton and Evans agree the liability of the at-fault defendants should have been joint and several, and the trial court erred in ruling that liability was several only. *App. Br. at 30-32*. Defendants Stanton and Evans adopt and incorporate the argument set forth in Section IV. A. of Appellant's Brief. *App. Br. at 30-32*.

**V. CONCLUSION**

Defendants Stanton and Evans concur with Appellant that the trial court erred in determining that the at-fault defendants' liability was several only. Applying *de novo* review, this Court should remand to the trial court with instructions that the liability of the defendants against whom judgment was entered be joint and several.

DATED this 7<sup>th</sup> day of June, 2019.

REED McCLURE

By 

Suzanna Shaub WSBA #41018  
Attorneys for Respondent Stanton

CROWLEY & KAY, INC. PS

By , WSBA No. 41018

for Karen M. Kay WSBA #36765 (per e-mail  
Attorneys for Respondent Evans authority)

063060.000041/1014522.docx

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION II

REBEKAH L. HART, individually

Appellant,

vs.

EMILY PRATHER and "JOHN  
DOE" PRATHER, individually and  
the marital community comprised  
thereof; PARKER J. KNAUER,  
individually, STEVEN KNAUER  
AND PAMILA KNAUER,  
individually and the marital  
community comprised thereof;  
BRAYDEN STANTON and "JANE  
DOE" STANTON, individually and  
the marital community comprised  
thereof;

Respondents,

and

NATHAN BARNES and "JANE  
DOE" BARNES, individually and the  
marital community comprised thereof;

Defendants,

and

TODD EVANS and "JANE DOE"  
EVANS, individually and the marital  
community comprised thereof; and  
ERIC NELSON and "JANE DOE"  
NELSON, individually and the  
marital community comprised thereof;

Respondents,

and

BRITTANY POWELL,

Defendant.

No. 52271-3-II

AFFIDAVIT OF SERVICE

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

The undersigned, being first duly sworn upon oath, deposes and says:

That she is a citizen of the United States of America; that she is over the age of 18 years, not a party to the above-entitled action, and competent to be a witness therein; that on June 7, 2019, affiant served copies of the following documents:

1. Brief of Respondents Stanton and Evans; and
2. Affidavit of Service

on counsel below via the Washington State Appellate Court's Electronic Filing Portal:

Jeffrey D. Coats  
Law Offices of Mark M. Miller  
15500 SE 30<sup>th</sup> Place, Suite 201  
Bellevue WA 98007-6347  
[Jeffrey.coats@farmersinsurance.com](mailto:Jeffrey.coats@farmersinsurance.com)

John Taylor Bender  
Lewis Brisbois Bisgaard & Smith  
1111 3<sup>rd</sup> Avenue, Suite 2700  
Seattle WA 98101-3224  
[John.bender@lewisbrisbois.com](mailto:John.bender@lewisbrisbois.com)

Joseph R. Kopta  
Attorney at Law  
8520 Landing Ln SE  
Port Orchard, WA  
[joe@koptamacpherson.com](mailto:joe@koptamacpherson.com)

Yvonne Marie Benson  
Gordon Thomas Honeywell  
600 University Street, Suite 2100  
Seattle WA 98101-4161  
[ybenson@gth-law.com](mailto:ybenson@gth-law.com)

Karen Marie Kay  
Crowley & Kay Inc. P.S.  
524 Tacoma Avenue S  
Tacoma WA 98402-5416  
[karen@524law.com](mailto:karen@524law.com)

Benjamin Franklin Barcus  
Ben F. Barcus & Associates PLLC  
4303 Ruston Way  
Tacoma WA 98402-5313  
[ben@benbarcus.com](mailto:ben@benbarcus.com)



**REED MCCLURE**

**June 07, 2019 - 3:11 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 52271-3  
**Appellate Court Case Title:** Rebekah L. Hart, Appellant v. Emily Prather et al., Respondent  
**Superior Court Case Number:** 12-2-14762-6

**The following documents have been uploaded:**

- 522713\_Briefs\_Plus\_20190607150640D2969595\_6794.pdf  
This File Contains:  
Affidavit/Declaration - Service  
Briefs - Respondents  
*The Original File Name was Brief and Aff of Service.pdf*

**A copy of the uploaded files will be sent to:**

- Gregory.Worden@lewisbrisbois.com
- Taliah.Ahdut@lewisbrisbois.com
- ben@benbarcus.com
- coreenw@wieckwilson.com
- jeffrey.coats@farmersinsurance.com
- joe@koptamacpherson.com
- karen@524law.com
- mclifton@rmlaw.com
- mdiefenbach@gth-law.com
- paul@benbarcus.com
- smith@sohalang.com
- thomas@sohalang.com
- tiffany@benbarcus.com
- tim@gosselinlawoffice.com
- vicki.milbrad@lewisbrisbois.com
- ybenson@gth-law.com

**Comments:**

---

Sender Name: Jenelle Barrett - Email: jbarrett@rmlaw.com

**Filing on Behalf of:** Suzanna Shaub - Email: sshaub@rmlaw.com (Alternate Email: mclifton@rmlaw.com)

Address:  
1215 Fourth Ave., Ste. 1700  
Seattle, WA, 98161  
Phone: (206) 386-7060

**Note: The Filing Id is 20190607150640D2969595**