

**STATE OF RHODE ISLAND  
KENT, SS**

**SUPERIOR COURT**

**ELIZABETH PESTANA  
Plaintiff**

**v.**

**MICHAEL S. DIPETRILLO &  
LYNNE PRODGER, In Her Official  
Capacity as Treasurer of the City of  
Warwick  
Defendants**

**C.A. NO.: KC-2023-**

**COMPLAINT**

**PARTIES AND JURISDICTION**

1. Plaintiff, Elizabeth Pestana (hereinafter "Plaintiff"), is a resident of North Providence, Rhode Island.
2. Upon information and belief, Defendant, Michael S. DiPetrillo, is a resident of Warwick, Rhode Island.
3. Defendant, Lynne Prodger, is Treasurer for the City of Warwick, a municipal corporation organized under the laws of the State of Rhode Island and is a named defendant pursuant to Rhode Island General Laws § 45-15-5.
4. Venue is proper in Kent County.
5. The amount in controversy exceeds the jurisdictional minimums of this Court.

**FACTS**

6. Plaintiff restates and realleges paragraphs 1–5 as if fully set forth herein.
7. On or about August 23, 2022, Michael S. DiPetrillo was an employee and/or agent of the City of Warwick.
8. On or about August 23, 2022, Michael S. DiPetrillo was operating a motor vehicle owned by the City of Warwick while in the course and scope of his employment with the City of Warwick.

9. On or about August 23, 2022, Michael S. DiPetrillo negligently operated said motor vehicle while on Bald Hill Road in Warwick, Rhode Island.
10. As a result of his negligence, the motor vehicle operated by Michael S. DiPetrillo struck another motor vehicle, which in turn struck a motor vehicle operated by Plaintiff.
11. At all times material hereto, Plaintiff was in the exercise of due care.

**COUNT I**

**Negligence: Plaintiff v. Michael S. DiPetrillo**

12. Plaintiff restates and realleges paragraphs 1–11 as if fully set forth herein.
13. Michael S. DiPetrillo owed a duty to Plaintiff to operate his motor vehicle with due care.
14. Michael S. DiPetrillo breached his duty owed to Plaintiff by operating his motor vehicle in a negligent manner.
15. As a direct and proximate result of Michael S. DiPetrillo’s negligence, Plaintiff sustained personal injuries, experienced pain and suffering, both mental and physical, and incurred medical expenses, all of which will continue into the future

WHEREFORE, Plaintiff demands judgment against Defendant, Michael S. DiPetrillo, for compensatory damages in an amount sufficient to invoke the jurisdiction of this Court and in an amount sufficient to fully compensate Plaintiff for her damages, plus interest and costs.

**COUNT II**

**R.I. Gen. Laws § 9-2-17: Plaintiff v. Lynne Proddger, in Her Official Capacity as Treasurer of the City of Warwick**

16. Plaintiff restates and realleges paragraphs 1–15 as if fully set forth herein.
17. At the time of the subject motor vehicle crash referred to in Paragraphs 7–11, *supra*, the City of Warwick was the registered owner of the vehicle operated by Defendant, Michael S. DiPetrillo.
18. The City of Warwick is liable to Plaintiff pursuant to R.I. Gen. Laws § 9-2-17.

WHEREFORE, Plaintiff demands judgment against the City of Warwick and Defendant, Lynne Proddger, in Her Official Capacity as Treasurer of the City of Warwick, for compensatory damages in an amount sufficient to invoke the jurisdiction of this Court and in an amount sufficient to fully compensate Plaintiff for her damages, plus interest and costs.

**COUNT III**

**R.I. Gen. Laws § 31-33-6: Plaintiff v. Lynne Prodger, in Her Official Capacity as Treasurer of the City of Warwick**

19. Plaintiff restates and realleges paragraphs 1–18 as if fully set forth herein.
20. At the time of the subject motor vehicle crash referred to in Paragraphs 7–11, *supra*, the City of Warwick was the registered owner of the vehicle operated by Defendant, Michael S. DiPetrillo.
21. At the time of the subject motor vehicle–pedestrian crash referred to in Paragraphs 7–11, *supra*, Defendant, Michael S. DiPetrillo, was operating the motor vehicle with the consent and permission, either express or implied, and/or as an agent of the vehicle’s owner, the City of Warwick.
22. The City of Warwick is liable to Plaintiff pursuant to R.I. Gen. Laws § 31-33-6.

WHEREFORE, Plaintiff demands judgment against the City of Warwick and Defendant, Lynne Prodger, in Her Official Capacity as Treasurer of the City of Warwick, for compensatory damages in an amount sufficient to invoke the jurisdiction of this Court and in an amount sufficient to fully compensate Plaintiff for her damages, plus interest and costs.

**COUNT IV**

***Respondeat Superior*: Plaintiff v. Lynne Prodger, in Her Official Capacity as Treasurer of the City of Warwick**

23. Plaintiff restates and realleges paragraphs 1–22 as if fully set forth herein.
24. At all times relevant hereto, Defendant, Michael S. DiPetrillo, was an employee and/or agent of the City of Warwick and was acting within the course and scope of his employment when he negligently operated his motor vehicle so as to cause the motor vehicle crash referred to in Paragraphs 7–11, *supra*.
25. The actions and/or conduct of Defendant, Michael S. DiPetrillo, were incidental to his occupational duties with the City of Warwick and were reasonably foreseeable to the City of Warwick.
26. All times relevant hereto, the City of Warwick, as an employer of Defendant, Michael S. DiPetrillo, was responsible for all the actions and conduct of Defendant, Michael S. DiPetrillo, under a theory of *respondeat superior*.
27. As a direct and proximate result of the negligence of Defendant, Michael S. DiPetrillo Plaintiff sustained personal injuries, experienced pain and suffering, both mental and physical, and incurred medical expenses, all of which will continue into the future.

WHEREFORE, Plaintiff demands judgment against the City of Warwick and Defendant, Lynne Prodger, in Her Official Capacity as Treasurer of the City of Warwick, for compensatory damages in an amount sufficient to invoke the jurisdiction of this Court and in an amount sufficient to fully compensate Plaintiff for her damages, plus interest and costs.

**A TRIAL BY JURY IS DEMANDED UPON ALL ISSUES**

Respectfully submitted:  
PLAINTIFF, ELIZABETH PESTANA,  
By her Attorney,

/s/ Michael F. Curtis  
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Dated: January 4, 2024