

01-563-CD
BONNIE L. DONALDSON et al. -vs- WALTER R. ZWILLING et al.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

01-563-C.D

BONNIE L. DONALDSON and
LARRY L DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON MOTORS,
INC., JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY,
Defendants

No. - 2001 - C.D.
Type of Case: CIVIL
Type of Pleading: COMPLAINT
Filed on Behalf of: PLAINTIFFS
Counsel of Record for this Party:
PAUL E. CHERRY, ESQ.
Supreme Court No.42945
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288

FILED

APR 19 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and
LARRY L DONALDSON, SR.,
Plaintiffs

01-563-CO

vs.

No. - 2001 - C.D.

WALTER R. ZWILLING, JOHNSON MOTORS,
INC., JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY,
Defendants

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without further notice for any money claimed in the Amended Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David S. Meholic, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641 Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and
LARRY L DONALDSON, SR.,
Plaintiffs

01-563-CD

vs.

No. - 2001 - C.D.

WALTER R. ZWILLING, JOHNSON MOTORS,
INC., JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY,
Defendants

COMPLAINT

AND NOW, comes the Plaintiffs, BONNIE L. DONALDSON and LARRY L DONALDSON, SR., by and through their attorneys, CHERRY & CHERRY, who file the within Complaint, averring as follows:

1. Plaintiff, BONNIE L. DONALDSON, is an adult individual, residing at 147 Third Street, Falls Creek, Jefferson County, Pennsylvania 15840.
2. Plaintiff, LARRY L DONALDSON, SR., is an adult individual, intermarried with Plaintiff, BONNIE L. DONALDSON, residing at 147 Third Street, Falls Creek, Jefferson County, Pennsylvania 15840.
3. Defendant, WALTER R. ZWILLING, is an adult individual, residing at 173 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801.
4. Defendant, JOHNSON MOTORS, INC., is a Pennsylvania Corporation located at 911 South Brady Street, DuBois, Clearfield County, Pennsylvania.
5. Defendant, JAMES ROGER WEYANT, is an adult individual, residing at 320 South First Street, Bellwood, Cambria County, Pennsylvania 16617.
6. Defendant, SOUTH MAIN TRUCKING COMPANY, is a Pennsylvania Corporation located at 1000 South Main Street, Greensburg, Westmoreland County, Pennsylvania 15601.

7. At all times relevant hereto, the above Defendants were acting individually and through their authorized agents, servants, workmen and employees, then and there acting within the course and scope of their employment.

8. On April 22, 1999, Plaintiffs were the owners of a 1997 Honda Civic Automobile which was involved in the accident described herein.

9. On the aforesaid date, Defendant, WALTER R. ZWILLING, was operating a 1988 Ford F-150 Pickup Truck owned by Defendant, JOHNSON MOTORS, INC., which was involved in the accident described herein.

10. On the aforesaid date, Defendant, JAMES ROGER WEYANT, was operating a 1995 VD Truck owned by Defendant, SOUTH MAIN STREET TRUCKING COMPANY, which was involved in the accident described herein.

11. On the aforesaid date, at approximately 9:00 a.m., Plaintiff, BONNIE L. DONALDSON, was operating the vehicle owned by the Plaintiffs in a southerly direction on State Route 119 in Sandy Township, Clearfield County, Pennsylvania, when she turned on her left turn signal and applied her brakes to indicate that she was turning into a car wash along the highway .

12. On the aforesaid date at the same approximate time, Defendant, WALTER R. ZWILLING, was driving the vehicle owned by Defendant, JOHNSON MOTORS, INC., at an apparent excessive rate of speed in a southerly direction on State Route 119 immediately behind the vehicle being driven by Plaintiff, BONNIE L. DONALDSON, when he struck his vehicle into the rear of Plaintiffs' vehicle pushing Plaintiff's vehicle across the center line of the highway into the northbound lane and into the path of the vehicle operated by Defendant, JAMES ROGER WEYANT, and owned by Defendant, SOUTH MAIN STREET TRUCKING, COMPANY, which hit Plaintiff, BONNIE L. DONALDSON'S vehicle nearly head-on. A true and correct copy of the Commonwealth of Pennsylvania Police Accident Report evidencing said accident is attached hereto and made a part hereof as Exhibit "A".

13. At the time of the accident herein described, Plaintiff, BONNIE L. DONALDSON, was lawfully stopped and waiting to make a left hand turn.

14. The accident was directly and proximately caused by the negligence, carelessness, indifference, and reckless disregard of Defendant, WALTER R. ZWILLING, which consisted of the following:

- (a) operating his motor vehicle in a careless, reckless, and negligent manner;
- (b) operating his motor vehicle at an excessive rate of speed under the circumstances;
- (c) Operating his motor vehicle with no warning of approach or intended direction;
- (d) Not having his motor vehicle under the proper control so as to stop said vehicle within the assured clear distance ahead (Pa. Cons. Stat. Section 3361);
- (e) Operating the motor vehicle without due regard to the rights, safety, wellbeing, and position of the Plaintiff, BONNIE L. DONALDSON;
- (f) Failing to have his motor vehicle under the proper control so as to prevent this vehicle from striking the Plaintiffs' motor vehicle;
- (g) failing to keep a proper lookout;
- (h) failing to use due care under the circumstances;
- (i) failing to notice the motor vehicle of the Plaintiffs;
- (j) upon noticing the motor vehicle of Plaintiffs, failing to yield the right-of-way to the Plaintiffs' vehicle; and
- (k) failing to take evasive action in order to avoid impacting with Plaintiffs' vehicle;
- (l) failing to apply his brakes in sufficient time to avoid striking Plaintiffs' stationary car;
- (m) operating his motor vehicle in disregard of the rule of the road, the ordinances of Sandy Township, and the laws of the Commonwealth of Pennsylvania, including but not limited to the Motor Vehicle Code, 75 Pa. Cons. Stat. Section 3310.

15. Defendant, WALTER R. ZWILLING, was charged by the Sandy Township Police with 75 Pa. Cons. Stat. §§ 3310, Following too closely.

16. The accident was directly and proximately caused by the negligence, carelessness, indifference, and reckless disregard of Defendant, JAMES ROGER WEYANT, which consisted of the following:

- (a) operating his motor vehicle in a careless, reckless, and negligent manner;
- (b) operating his motor vehicle at an excessive rate of speed under the circumstances;
- (c) Operating the motor vehicle without due regard to the rights, safety, wellbeing, and position of the Plaintiff, BONNIE L. DONALDSON;
- (d) Failing to have his motor vehicle under the proper control so as to prevent this vehicle from striking the Plaintiffs' motor vehicle;
- (e) failing to keep a proper lookout;
- (f) failing to use due care under the circumstances;
- (g) failing to notice the motor vehicle of the Plaintiffs;
- (h) upon noticing the motor vehicle of Plaintiffs, failing to yield the right-of-way to the Plaintiffs' vehicle;
- (i) failing to take evasive action in order to avoid impacting with Plaintiffs' vehicle;
- (j) failing to apply his brakes in sufficient time to avoid striking Plaintiffs' vehicle;

17. At all times material hereto, Plaintiff, BONNIE L. DONALDSON, acted with due care and was not contributorily negligent.

COUNT I.

Plaintiff, BONNIE L. DONALDSON vs. Defendants, WALTER R. ZWILLING, JOHNSON MOTORS, INC., JAMES ROGER WEYANT, and SOUTH MAIN STREET TRUCKING, INC.

18. Plaintiff, BONNIE L. DONALDSON, incorporates herein by reference the allegations set forth in paragraphs 1 through 17 as though the same were fully set forth at length.

19. As a result of the negligence, carelessness, reckless disregard, and indifference of Defendants, Plaintiff, BONNIE L. DONALDSON, was thrown violently against the interior of her motor vehicle and sustained severe injuries to the muscles, blood vessels, nerves, tendons, connective tissues, skin, bones, and organs of her body, including but not limited to; closed head injury; concussion; 11 cm right forehead laceration which extended down to the pericranium; 11 cm right supraorbital which extended down to the pericranium; small puncture wound behind the right ear; significant contusions of the chin and left CMC region; slightly displaced and depressed comminuted fracture of the lateral tibial plateau of the right knee; right knee lipohemarthrosis; left peroneal vein deep thrombosis; soleus vein thrombosis; soft tissue injury to the cervical spine; contusion overlying the left clavicle; contusion of both the right and left anterior thigh with abrasions over the right thigh and knee; significant contusions of the right arm and hand; transient hypotension; constant vertigo with associated nausea; severe memory loss; loss of feeling on the upper right side of her head; tremors in her hands; disfiguring scar of the right forehead and around the right eye; post traumatic stress disorder including disabling depression and fear of driving.

20. The injuries sustained by Plaintiff, BONNIE L. DONALDSON, as set forth above, are serious injuries which resulted in serious impairment of bodily function and permanent serious disfigurement.

21. As a direct and proximate result of the collision and the negligence, carelessness, reckless disregard, and indifference of Defendants, Plaintiff, BONNIE L. DONALDSON, has suffered, and will suffer in the future, great pain, agony, and inconvenience.

22. As a result of Defendants' negligence, Plaintiff, BONNIE L. DONALDSON, sustained a total loss of Plaintiffs' motor vehicle, the reasonable value of which at the time of the accident was \$12,905.50 including sales tax less salvage value. A true and correct copy of the Appraiser's Report is attached as Exhibit "B".

23. As a direct and proximate result of the negligence, carelessness, reckless disregard of Defendants, Plaintiff, BONNIE L. DONALDSON, has been, and in the future will be prevented from attending to her usual occupation as a Hair Stylist to her great loss and detriment.

24. As a direct and proximate result of the collision and the negligence, carelessness, reckless disregard, and indifference of Defendants, Plaintiff, BONNIE L. DONALDSON, has incurred, and in the future may incur, expenses for medical treatment and physical therapy in an amount not yet ascertained.

25. As a direct and proximate result of the collision and the negligence of Defendants, Plaintiff, BONNIE L. DONALDSON, has suffered a disruption in her daily habits and pursuits and a loss of enjoyment of life.

26. A jury trial is demanded.

WHEREFORE, Plaintiff, BONNIE L. DONALDSON, demands judgment against Defendants, WALTER R. ZWILLING, JOHNSON MOTORS, INC., JAMES ROGER WEYANT, and SOUTH MAIN STREET TRUCKING, INC., in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00), exclusive of interest and costs of suit.

COUNT II.

Plaintiff, LARRY L. DONALDSON vs. Defendants, WALTER R. ZWILLING, JOHNSON MOTORS, INC., JAMES ROGER WEYANT, and SOUTH MAIN STREET TRUCKING, INC.

27. Plaintiff, LARRY L DONALDSON, incorporates herein by reference the allegations set forth in paragraphs 1 through 26 as though the same were fully set forth at length.

28. As a result of the negligence, carelessness, reckless disregard, and indifference of Defendants, Plaintiff, LARRY L DONALDSON, has been deprived of the society, companionship, and consortium of his wife, Plaintiff, BONNIE L. DONALDSON, to his great detriment and loss.

29. As a result of the negligence, carelessness, reckless disregard, and indifference of Defendants, Plaintiff, LARRY L DONALDSON, has incurred large medical bills and expenses to treat his wife's injuries.

30. As a result of the negligence, carelessness, reckless disregard, and indifference of Defendants, Plaintiff, LARRY L DONALDSON, has suffered a disruption in his daily habits and pursuits and a loss of enjoyment of life.

31. A jury trial is demanded.

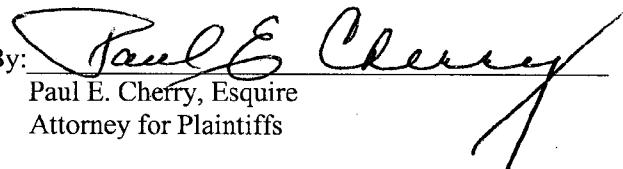
WHEREFORE, Plaintiff, LARRY L DONALDSON, demands judgment against Defendants, WALTER R. ZWILLING, JOHNSON MOTORS, INC., JAMES ROGER WEYANT, and SOUTH MAIN STREET TRUCKING, INC., in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00), exclusive of interest and costs of suit.

Respectfully submitted,

CHERRY & CHERRY

By:

Paul E. Cherry, Esquire
Attorney for Plaintiffs



We, BONNIE L. DONALDSON and LARRY L DONALDSON, verify that the statements made in this Complaint are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: April 16, 2001

Bonnie L. Donaldson

Bonnie L. Donaldson

Date: April 16, 2001

Larry L. Donaldson

Larry L. Donaldson

COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT REPORT

MARY SOKOY 1-800-100-0000 ext 4278

9904 5137

28

11/22

PENNDO T USE ONLY

XX) REFER TO OVERLAY SHEETS



REPORTABLE NON-REPORTABLE

ACCIDENT LOCATION

POLICE INFORMATION		ACCIDENT LOCATION			
1. INCIDENT NUMBER	STP 4-99-1421	20. COUNTY	CLEARFIELD 17		
2. AGENCY NAME	SANDY TOWNSHIP	21. MUNICIPALITY	SANDY TOWNSHIP 228		
3. STATION/ PRECINCT	SANDY	4. PATROL ZONE	1		
5. INVESTIGATOR	WILLIAM A BEERS	5. BADGE NUMBER	1		
6. APPROVED BY		6. BADGE NUMBER	1		
7. INVESTIGATION DATE	22 April 99	8. ARRIVAL TIME	0919 AM		
ACCIDENT INFORMATION					
9. ACCIDENT DATE	0909 AM	10. DAY OF WEEK	THURSDAY		
11. TIME OF DAY	22 April 99	12. NUMBER OF UNITS	3		
13. # KILLED	0	14. # INJURED	1		
16. DID VEHICLE HAVE TO BE REMOVED FROM THE SCENE?	UNIT 1 Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	17. VEHICLE DAMAGE	0 - NONE UNIT 1 1 - LIGHT 2 - MODERATE 3 - SEVERE UNIT 2		
18. HAZARDOUS MATERIALS	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	19. PENNDOT PROPERTY	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>		
UNIT # 1					
36. LEGALLY PARKED?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	37. REG. PLATE	F33978F PA		
39. PA TITLE OR OUT-OF-STATE VIN	1JTEF14YXJN804316				
40. OWNER	JOHNSON MOTORS INC				
41. OWNER ADDRESS	911 S. BRADY ST				
42. CITY, STATE & ZIPCODE	DOBOIS, PA 15801				
43. YEAR	1988				
44. MAKE	FORD				
45. MODEL - (NOT BODY TYPE)	F-150				
46. INS. Y <input checked="" type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>	47. BODY TYPE 50				
48. SPECIAL USAGE 0	49. VEHICLE OWNERSHIP 2				
50. INITIAL IMPACT POINT 12	51. VEHICLE STATUS 0				
53. VEHICLE GRADIENT 3	52. TRAVEL SPEED 99				
56. DRIVER NUMBER 496-20-8424	57. STATE MO				
58. DRIVER NAME WALTER R ZWILLING	58. DRIVER NAME BONNIE LEE DONALSON				
59. DRIVER ADDRESS 173 TREASURE MAZE	59. DRIVER ADDRESS 147 3RD ST				
60. CITY, STATE & ZIPCODE DOBOIS, PA 15801	60. CITY, STATE & ZIPCODE FALLS CREEK, PA 15840				
61. SEX M	62. DATE OF BIRTH 08-07-27	63. PHONE 311-9302	64. COMM. VEH. 65. DRIVER CLASS C		
66. CARRIER	67. CARRIER				
68. CARRIER ADDRESS	69. CITY, STATE & ZIPCODE				
70. USDOT #	ICC #	PUC #	70. USDOT #	ICC #	PUC #
72. VEH. CONFIG.	73. CARGO BODY TYPE	74. GVWR	72. VEH. CONFIG.	73. CARGO BODY TYPE	74. GVWR
75. NO. OF AXLES	76. HAZ ARDOUS MATERIALS	77. RELEASE OF HAZMAT Y <input type="checkbox"/> N <input type="checkbox"/> UNK	75. NO. OF AXLES	76. HAZ ARDOUS MATERIALS	77. RELEASE OF HAZMAT Y <input type="checkbox"/> N <input type="checkbox"/> UNK

78. RESPONDING EMS AGENCY EMTS							INCIDENT #: STP-4-99-										
79. MEDICAL FACILITY DEMC WEST							ACCIDENT DATE: 22 April 99										
80. PEOPLE INFORMATION																	
A	B	C	D	E	F	G	NAME		ADDRESS			H	I	J	K	L	M
1	1	M	71	3	1	0	WALTER ZWILLIG T.L. DUBOIS PA		0 - - - - -								
3	1	M	32	3	1	0	JAMES WEYANT BELWOOD PA		0 - - - - -								
2	1	F	56	3	9	1	BONNIE DONALDSON FAIRSCREEK PA		9 99 99 N 9 1								
81. ILLUMINATION 2 WEATHER 0																	
82. ROAD SURFACE 1																	
84. PENNSYLVANIA SCHOOL DISTRICT (IF APPLICABLE)							86. DIAGRAM										
85. DESCRIPTION OF DAMAGED PROPERTY							BARRY ST CAR WASH										
OWNER NIP							SR219										
ADDRESS							3										
PHONE							- 15										
87. NARRATIVE - IDENTIFY PRECIPITATING EVENTS, CAUSATION FACTORS, SEQUENCE OF EVENTS, WITNESS STATEMENTS, AND PROVIDE ADDITIONAL DETAILS, LIKE INSURANCE INFORMATION AND LOCATION OF TOWED VEHICLES, IF KNOWN.																	
<p>UNIT #1 STATED HE WAS GOING SOUTH ON SR219 BEHIND UNIT #2. UNIT #2 MADE A QUICK STOP & APPLIED MY BRAKES AND SLID INTO THE REAR OF UNIT #2 PUSHING UNIT #2 ACROSS THE CENTER LINE INTO THE PATH OF UNIT #3 GOING NORTH ON SR219.</p> <p>UNIT #2 HUSBAND STATED HE TALKED TO HIS WIFE SHE STATED SHE WAS GOING TO MAKE LEFT TURN INTO CAR WASH WHEN SHE WAS HIT.</p> <p>WITNESS STATED SAW GLASS HITTING THE ROADWAY AND CAR CAME ACROSS THE CENTER LINE IN FRONT OF UNIT #3.</p>																	
INSURANCE INFORMATION		COMPANY		INSURANCE INFORMATION		COMPANY		INSURANCE INFORMATION		COMPANY		INSURANCE INFORMATION		COMPANY			
UNIT	POLICY NO	UNIVERSAL UNDER WRITERS		UNIT	POLICY NO	AMERICAN INT.		UNIT	POLICY NO	AMERICAN INT.		UNIT	POLICY NO	AMERICAN INT.			
1	169055 A	169055 A		2	112-75-35	112-75-35		2	112-75-35	112-75-35		2	112-75-35	112-75-35			
88. WITNESSES	NAME	VICTOR MANCINI		ADDRESS	1382 PEPP AVE BROCKW		PHONE	ADDRESS	1382 PEPP AVE BROCKW		PHONE	ADDRESS	1382 PEPP AVE BROCKW		PHONE		
89. VIOLATIONS INDICATED							90. SECTION NUMBERS (ONLY IF CHARGED)							TC NTC			
UNIT 1	Following To Closely																
UNIT 2																	
91. PROBABLE USE		92. TYPE TEST		93. RESULTS		91. PROBABLE USE		92. TYPE TEST		93. RESULTS		94. INVESTIGATION COMPLETE ?					
UNIT 1				0. ___ %		UNIT 2				0. ___ %		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>					
AA-45 (11/95)																	

COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT REPORT

(XX) REFER TO OVERLAY SHEETS



REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

POLICE INFORMATION				ACCIDENT LOCATION				
1. INCIDENT NUMBER	STP-4-99-1421			20. COUNTY	CLEARFIELD 17			
2. AGENCY NAME	SANDY Township			21. MUNICIPALITY	SANDY Township 228			
3. STATION/PRECINCT	SANDY			PRINCIPAL ROADWAY INFORMATION				
4. INVESTIGATOR	Williams A BEERS			22. ROUTE NO. OR STREET NAME				
5. APPROVED BY				23. SPEED LIMIT	(24) TYPE HIGHWAY	(25) ACCESS CONTROL		
6. INVESTIGATION DATE	04/22/99	8. ARRIVAL TIME	09:19AM	INTERSECTING ROAD:				
ACCIDENT INFORMATION				26. ROUTE NO. OR STREET NAME				
9. ACCIDENT DATE	04/22/99	10. DAY OF WEEK	THURSDAY	27. SPEED LIMIT	(28) TYPE HIGHWAY	(29) ACCESS CONTROL		
11. TIME OF DAY	09:09 AM	12. NUMBER OF UNITS	3	IF NOT AT INTERSECTION:				
13. # KILLED	0	14. # INJURED	1	30. CROSS STREET OR SEGMENT MARKER				
16. DID VEHICLE HAVE TO BE REMOVED FROM THE SCENE?	UNIT 3 UNIT 2			31. DIRECTION FROM SITE	N S E W	32. DISTANCE FROM SITE	FT. MI.	
Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Y <input type="checkbox"/> N <input type="checkbox"/>	17. VEHICLE DAMAGE	0 - NONE UNIT 3 2	33. DISTANCE WAS	MEASURED <input type="checkbox"/>	ESTIMATED <input checked="" type="checkbox"/>		
18. HAZARDOUS MATERIALS	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	19. PENNDOT PROPERTY	Y <input type="checkbox"/> N <input type="checkbox"/>	34. CONSTRUCTION ZONE	(35) TRAFFIC CONTROL DEVICE	PRINCIPAL INTERSECTING		
UNIT #3								
36. LEGALLY PARKED? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	37. REG. PLATE	TM10453	38. STATE	PA	36. LEGALLY PARKED? <input type="checkbox"/> Y <input type="checkbox"/> N	37. REG. PLATE	38. STATE	
39. PA TITLE OR OUT-OF-STATE VIN	48150536902			39. PA TITLE OR OUT-OF-STATE VIN				
40. OWNER	SOUTH MAIN TRUCKING CO.			40. OWNER				
41. OWNER ADDRESS	1000 S. MAIN ST			41. OWNER ADDRESS				
42. CITY, STATE & ZIPCODE	GREENSBURG PA 15601			42. CITY, STATE & ZIPCODE				
43. YEAR	1995	44. MAKE	UD	43. YEAR	44. MAKE			
45. MODEL - (NOT BODY TYPE)	TK.	46. INS.	Y <input checked="" type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>	45. MODEL - (NOT BODY TYPE)	46. INS.	Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>		
47. BODY TYPE	69	48. SPECIAL USAGE	0	47. BODY TYPE	48. SPECIAL USAGE	49. VEHICLE OWNERSHIP		
50. INITIAL IMPACT POINT	12	51. VEHICLE STATUS	0	50. INITIAL IMPACT POINT	51. VEHICLE STATUS	52. TRAVEL SPEED		
53. VEHICLE GRADIENT	2	54. DRIVER PRESENCE	1	53. VEHICLE GRADIENT	54. DRIVER PRESENCE	55. DRIVER CONDITION		
56. DRIVER NUMBER	21-091-378	57. STATE	PA	56. DRIVER NUMBER	57. STATE			
58. DRIVER NAME	JAMES Roger WEYANT			58. DRIVER NAME				
59. DRIVER ADDRESS	320 South 1st St.			59. DRIVER ADDRESS				
60. CITY, STATE & ZIPCODE	BELMONT PA 16617			60. CITY, STATE & ZIPCODE				
61. SEX	62. DATE OF BIRTH	63. PHONE	61. SEX	62. DATE OF BIRTH	63. PHONE			
64. COMM. VEH. Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	65. DRIVER CLASS	1	64. COMM. VEH. Y <input type="checkbox"/> N <input type="checkbox"/>	65. DRIVER CLASS				
67. CARRIER	SOUTH MAIN TRUCKING CO.			67. CARRIER				
68. CARRIER ADDRESS	1000 S. MAIN ST			68. CARRIER ADDRESS				
69. CITY, STATE & ZIPCODE	GREENSBURG PA 15601			69. CITY, STATE & ZIPCODE				
70. USDOT #	1096383	ICC #	322-634C	PUC #	AA-001-4076	ICC #	PUC #	
72. VEH. CONFIG.	2	73. CARGO BODY TYPE	2.	74. GVWR	17,000	72. VEH. CONFIG.	73. CARGO BODY TYPE	74. GVWR
75. NO. OF AXLES	2	(76) HAZARDOUS MATERIALS	Y <input type="checkbox"/> N <input checked="" type="checkbox"/> UNK <input type="checkbox"/>	77. RELEASE OF HAZMAT	Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>	75. NO. OF AXLES	(76) HAZARDOUS MATERIALS	77. RELEASE OF HAZMAT
AA-45 (11/95)								

I saw glass hitting the road and a car near across the roadway in front of a scott electric truck that hit it. The truck had no hope of stopping.

UNIT #1 STATED HE WAS GOING SOUTH ON RT219 BEHIND UNIT #2 SHE MADE A QUICK STOP I APPLIED MY BRAKES AND RAN INTO THE REAR OF UNIT #2 PUSHING HER ACROSS THE CENTER LINE INTO THE PATH OF UNIT #3 GOING NORTH ON RT219.

UNIT #3 STATED GOING NORTH ON RT219 SAW UNIT #1 ROLL INTO THE BACK OF UNIT #2 PUSHING HER ACROSS THE CENTER LINE INTO MY PATH THERE WASN'T ANYTHING I COULD DO TO AVOID FROM HITTING UNIT #2

VICTOR MANCINI

1382 Penn Ave
Brockway PA
265-0901

FILED

APR 19 2001

11/20/01
William A. Shantz
Prothonotary

PD 800

Accatty Cherry

Cherry & Cherry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

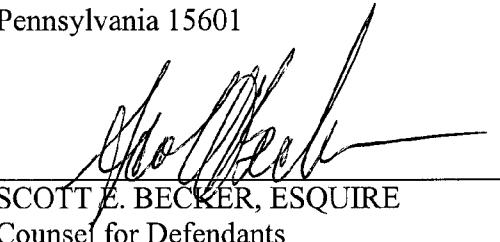
CERTIFICATE OF SERVICE

I, Scott E. Becker, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Praeclipe for Appearance by first-class mail, postage pre-paid on May 7, 2001, upon the following counsel of record and/or parties:

Paul E. Cherry, Esquire
Cherry & Cherry
23 East Park Avenue
DuBois, Pennsylvania 15801

James Roger Weyant
320 South First Street
Bellwood, Pennsylvania 16617

South Main Trucking Company
1000 South Main Street
Greensburg, Pennsylvania 15601


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

FILED

MAY 09 2001
m 10:50 / no cc
William A. Shaw
Prothonotary *WAS*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

CIVIL DIVISION

No. 01-563 CD

VS.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

TYPE OF PLEADING:

PRAECIPE FOR APPEARANCE

Filed on Behalf of Defendants:

WALTER R. ZWILLING and
JOHNSON MOTORS, INC.

Counsel of Record for This Party:

SCOTT E. BECKER, ESQUIRE
PA I.D. #19671

FILED

MAY 09 2001

William A. Shaw
Prothonotary

Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and) CIVIL DIVISION
LARRY L. DONALDSON, SR.,)
Plaintiffs) No. 01-563 CD
VS.)
WALTER R. ZWILLING, JOHNSON)
MOTORS, INC., JAMES ROGER)
WEYANT and SOUTH MAIN TRUCKING)
COMPANY,)
Defendants)

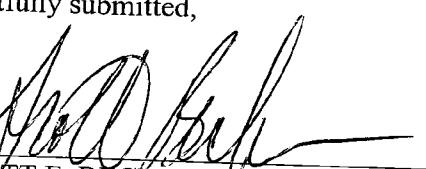
PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of the undersigned on behalf of the Defendants, Walter R. Zwilling and Johnson Motors, Inc., in the above-captioned case.

Respectfully submitted,

By


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:

: Praecipe for Entry of Appearance

: FILED ON BEHALF OF:

: Defendants JAMES ROGER
WEYANT and SOUTH MAIN
TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:

: J. Michael Dorezas, Esquire
PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

: 401 Allegheny Street

: P.O. Box 415

: Hollidaysburg, PA 16648

: (814) 695-7581

: JURY TRIAL DEMANDED

FILED

MAY 16 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and : CIVIL DIVISION
LARRY L. DONALDSON, SR., :
Plaintiffs :
vs. : No. 01 - 563 C.D.
:

WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER WEYANT, :
and SOUTH MAIN TRUCKING COMPANY, :
Defendants. :

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please note the appearance of the undersigned as counsel of record for JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, Defendants named in the above matter, noting that all papers and process for service upon said party may be served upon the undersigned at 401 Allegheny Street, P. O. Box 415, Hollidaysburg, Pennsylvania 16648.

EVEY, ROUTCH, BLACK, DOREZAS, MAGEE
& LEVINE, LLP

By: J. Michael Dorezas
J. Michael Dorezas, Esq.
Attorney for the Defendants
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE FOR ENTRY OF APPEARANCE was served on the 15 day of May, 2001, by United States Mail, First Class, postage prepaid, addressed to the following:

Paul E. Cherry, Esquire
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288
(Attorney for Plaintiffs)

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(412) 263-3360
(Attorney for Defendants WALTER R. ZWILLING and JOHNSON MOTORS, INC.)

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE
& LEVINE, LLP

BY: J. Michael Dorezas
J. Michael Dorezas, Esq.
Attorney for Defendants
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

FILED

MAY 16 2001

10:05 AM '01

William A. Shaw

Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10909

DONALDSON, BONNIE L. & LARRY L.

01-563-CD

VS.

ZWILLING, WALTER R. Etal

COMPLAINT

SHERIFF RETURNS

**NOW APRIL 20, 2001 AT 9:31 AM DST SERVED THE WITHIN COMPLAINT ON
JOHNSON MOTORS INC., DEFENDANT AT EMPLOYMENT, 911 SOUTH BRADY
ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JAMES
BAIN, P.I.C. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND
MADE KNOWN TO HIM THE CONTENTS THEREOF.**

SERVED BY: SNYDER

**NOW APRIL 27, 2001, THOMAS DEMKO, SHERIFF OF JEFFERSON COUNTY WAS
DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO
SERVE THE WITHIN COMPLAINT ON WALTER R. ZWILLING, DEFENDANT.**

**NOW MAY 2, 2001 SERVED THE WITHIN COMPLAINT ON WALTER R. ZWILLING,
DEFENDANT BY DEPUTIZING THE SHERIFF OF JEFFERSON COUNTY. THE RETURN
OF SHERIFF DEMKO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN
STATING THAT HE SERVED MARLENE HINGLAND, DAUGHTER.**

**NOW APRIL 19, 2001, CHRIS SCHERER, SHERIFF OF WESTMORELAND COUNTY
WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO
SERVE THE WITHIN COMPLAINT ON SOUTH MAIN TRUCKING COMPANY, DEFENDANT.
NOW MAY 4, 2001 SERVED THE WITHIN COMPLAINT ON SOUTH MAIN TRUCKING CO.
DEFENDANT BY DEPUTIZING THE SHERIFF OF WESTMORELAND COUNTY. THE
RETURN OF SHERIFF SCHERER IS HERETO ATTACHED AND MADE A PART OF THIS
RETURN STATING THAT HE SERVED JIM PARK, PRES.**

**NOW MAY 1, 2001, LARRY FIELD, SHERIFF OF BLAIR COUNTY WAS DEPUTIZED
BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE
WITHIN COMPLAINT ON JAMES R. WEYANT, DEFENDANT.**

**NOW MAY 9, 2001 SERVED THE WITHIN COMPLAINT ON JAMES R. WEYANT,
DEFENDANT BY DEPUTIZING THE SHERIFF OF BLAIR COUNTY. THE RETURN OF
SHERIFF FIELD IS HERETO ATTACHED AND MADE A PART OF THIS RETURN
STATING THAT HE SERVED PEGGY CLARK.**

In The Court of Common Pleas of Clearfield County, Pennsylvania

DONALDSON, BONNIE L. & LARRY L.

Sheriff Docket # 10909

01-563-CD

VS.

ZWILLING, WALTER R. Etal

COMPLAINT

SHERIFF RETURNS

Return Costs

Cost Description

75.00 SHFF. HAWKINS PAID BY ATTY:
29.30 SHFF. SCHERER PAID BY: ATTY.
27.00 SHFF. FIELD PAID BY: ATTY.
28.06 SHFF. DEMKO PAID BY: ATTY
40.00 SURCHARGE PAID BY ATTY

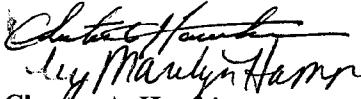
FILED

MAY 18 2001

01/230pm
William A. Shaw
Prothonotary

So Answers,

Sworn to Before Me This
18th Day Of May 2001



Chester A. Hawkins
Sheriff

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

No. 563 C.D. 2001

Personally appeared before me, Paul J. Pape, Deputy for Thomas A. Demko, Sheriff of Jefferson County, Pennsylvania, who according to law deposes and says that on May 2, 2001 at 1:30 o'clock P.M. served the Notice and Complaint upon WALTER R. ZWILLING, Defendant, at his residence, 50 Main Street, Borough of Reynoldsville, County of Jefferson, State of Pennsylvania, by handing to Marlene Hingland, his daughter and adult person in charge at time of service, a true and attested copy of the Notice and Complaint and by making known to her the contents thereof.

Advance Costs Received:	\$ 125.00
My Costs:	\$ 26.06 Paid
Prothy:	\$ 2.00
Total Costs:	\$ 28.06
Refunded:	\$ 96.94

Sworn and subscribed
to before me this 4th
day of May 2001
By Paul J. Pape

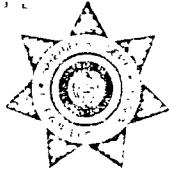
PROTHONOTARY
CLERK OF COURT Answers,

My Commission Expires
1st Monday of January 2002
Jefferson County, PA

Deputy

Paul J. Pape **Thomas A. Demko** Sheriff

JEFFERSON COUNTY, PENNSYLVANIA



Sheriff's Office Clearfield County

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX
(814) 765-6089

CHESTER A. HAWKINS
SHERIFF

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830

DARLENE SHULTZ
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

MARGARET PUTT
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON al

NO. 01-563-CD

VS

ACTION: COMPLAINT

WALTER R. ZWILLING al

SERVE BY: 5/19/01

Or

HEARING DATE:

SERVE: SOUTH MAIN TRUCKING COMPANY

ADDRESS: 1000 South Main St., Greensburg, Pa. 15601

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF of WESTMORELAND COUNTY Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 19th day of APRIL 2001.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: PAUL E. CHERRY, Attorney

DATE RECEIVED

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648SHERIFF SERVICE
PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:

Print legibly, insuring readability of all copies.

Do not detach any copies. BCSD ENV. #

1. PLAINTIFF / S /

Bonnie & Laeey Donaldson

2. COURT NUMBER

01-563-00

3. DEFENDANT / S /

Walter R. Zwilling et al

4. TYPE OF WRIT OR COMPLAINT

Complaint

SERVE



5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.

James R. Weyant

320 South FIRST ST, Bellwood

6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)

7. INDICATE UNUSUAL SERVICE: PERSONAL PERSON IN CHARGE DEPUTIZE CERT. MAIL REGISTERED MAIL POSTED OTHER

NOW, _____, I, SHERIFF OF BLAIR COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriffs' sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of:

Cheeey & Cheeey

 PLAINTIFF
 DEFENDANT

10. TELEPHONE NUMBER

11. DATE

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above.

SIGNATURE of Authorized BCSD Deputy or Clerk and Title

13. Date Received

14. Expiration/Hearing date

15. I hereby CERTIFY and RETURN that I have personally served, have served person in charge, have legal evidence of service as shown in "Remarks" (on reverse) have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by hand and/or posting a TRUE and ATTESTED COPY thereof.16. I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

17. Name and title of individual served

PC99V CLACK

18. A person of suitable age and discretion then residing in the defendant's usual place of abode. Read Order

19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)

SAME

20. Date of Service

21. Time

5-9-01

939

22. ATTEMPTS Date Miles Dep. Int. Date Miles Dep. Int. Date Miles Dep. Int. Date Miles Dep. Int. Date Miles Dep. Int.

23. Advance Costs 24. 25. 26. 27. Total Costs 28. COST DUE OR REFUND

30. REMARKS

SO ANSWER.

AFFIRMED and subscribed to before me this

9th

day of

May, 2001

By (Sheriff/Dep. Sheriff) (Please Print or Type)

J50 MPK

Date

5-9-01

Signature of Sheriff

SHERIFF OF BLAIR COUNTY

MY COMMISSION EXPIRES

NOTARY PUBLIC
Carol Grieco, Notary Public
Freedom Twp., Blair County
My Commission Expires Feb. 3, 2003I ACKNOWLEDGE RECEIPT OF SHERIFF'S RETURN SIGNATURE
Member, Pennsylvania Association of Notaries
CF AUTHORIZED ISSUING AUTHORITY AND TITLE

39. Date Received

316C

SHERIFF'S RETURN OF SERVICE

() (1) The within _____ upon _____, the within named defendant by mailing to _____ by _____ mail, return receipt requested, postage prepaid _____ on the _____ a true and attested copy thereof at _____

The return receipt signed by _____ defendant on the _____ is hereto attached and made part of this return.

() (2) Outside the Commonwealth, pursuant to Pa. R.C.P. 405 (c) (1) (2), by mailing a true and attested copy thereof at _____ in the following manner.

() (a) To the defendant by () registered () certified mail, return receipt requested, postage prepaid, addressee only on the _____ said receipt being returned NOT signed by defendant, but with a notation by the Postal Authorities that defendant refused to accept the same. The returned receipt and envelope is attached hereto and made part of this return.

And thereafter:

() (b) To the defendant by ordinary mail addressed to defendant at same address, with the return address of the Sheriff appearing thereon, on the _____

I further certify that after fifteen (15) days from the mailing date, I have not received said envelope back from the Postal Authorities. A certificate of mailing is hereto attached as a proof of mailing.

() (3) By publication in a daily publication of general circulation in the County of Blair, Commonwealth of Pennsylvania, _____ time (s) with publication appearing _____

The affidavit from said publication is hereto attached.

() (4) By mailing to _____ by _____ mail, return receipt requested, postage prepaid, on the _____ a true and attested copy thereof at _____

The _____ returned by the Postal Authorities marked _____ is hereto attached.

() (5) Other _____

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:

: **Preliminary Objections to
Plaintiffs' Complaint**

: FILED ON BEHALF OF:
: Defendants JAMES ROGER
: WEYANT and SOUTH MAIN
: TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:
: J. Michael Dorezas, Esquire
: PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP
: 401 Allegheny Street
: P.O. Box 415
: Hollidaysburg, PA 16648
: (814) 695-7581

: JURY TRIAL DEMANDED

FILED

MAY 22 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and : CIVIL DIVISION
LARRY L. DONALDSON, SR., :
Plaintiffs : No. 01 - 563 C.D.
:
vs. :
:
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER WEYANT, :
and SOUTH MAIN TRUCKING COMPANY, :
Defendants. :
:

**DEFENDANTS', JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY PRELIMINARY OBJECTIONS
TO PLAINTIFFS' COMPLAINT**

NOW, come Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, by and through their attorneys, EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP, and file the following Preliminary Objections to Plaintiffs' Complaint:

I. MOTION TO STRIKE and/or FOR MORE SPECIFIC PLEADING

1. Pa.R.C.P. 1019(a) requires:

The material facts upon which a cause of action or defense is based shall be stated in a concise and summary form.

2. Plaintiffs' Complaint in paragraph 16(a) and 16(f) purports to set forth acts of negligence on the part of these Defendants.

3. Paragraph 16 and subparagraphs (a) and (f) thereof sets forth as follows:

16. The accident was directly and proximately caused by the negligence, carelessness, indifference, and reckless disregard of Defendant, JAMES ROGER WEYANT, which consisted of the following:

- (a) operating his motor vehicle in a careless, reckless and negligent manner;
- (f) failing to use due care under the circumstances;

4. Pennsylvania is a fact pleading state and requires the complaint to contain the facts essential to support the claim. See Alpha Tau Omega Fraternity v. University of Pennsylvania 464 A.2d 1349 (Pa. Super 1983).

5. The allegations of paragraph 16(a) and 16(f) fail to set forth with particularity and specificity the facts giving rise to the allegations of negligence as required by the Pennsylvania Rules of Civil Procedure.

6. By permitting the language in 16(a.) and (f.) to remain in the complaint the Defendants lack the requisite specificity of factual averments to properly answer the complaint.

7. Plaintiffs' Complaint in paragraph 16(a) and 16(f) contain broad, general, boilerplate allegations as prohibited by the case law of this Commonwealth. See Connor v. Allegheny General Hospital, 461 A.2d 600 (1983).

8. Plaintiffs' paragraphs 16(a) and 16(f) would permit the theory of the Plaintiffs to change as the case progresses. See Connor v. Allegheny General Hospital, 461 A.2d 600 (1983).

WHEREFORE, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, pray that the allegations of paragraph 16(a) and 16(f) of Plaintiffs' Complaint be stricken or in the alternative specific averments of fact be set forth as required by Pa.R.C.P.

II. MOTION TO STRIKE PORTION OF COMPLAINT THAT INCLUDES IMPERTINENT MATTER PURSUANT TO PA R.C.P. 1028

9. Pa.R.C.P. 1028(a)(2) provides for impertinent matter to be stricken from a Complaint.

10. In paragraph 12(a), the Plaintiff attaches to and makes a part of the Plaintiffs' Complaint the Pennsylvania State Police Accident Report.

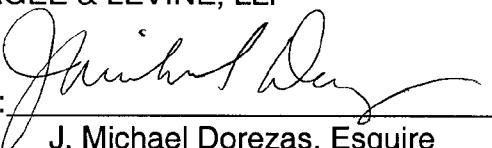
11. There is no basis in the Rules of Civil Procedure for the attachment of a police report to a Complaint, the same is impertinent matter.

WHEREFORE, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, pray that Exhibit "A" of Plaintiffs' Complaint be stricken as containing impertinent matters and not permitted pursuant to the Pennsylvania Rules of Civil Procedure.

Respectfully submitted,

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY:


J. Michael Dorezas, Esquire
PA I.D. #17460
401 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
(814) 695-1750
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

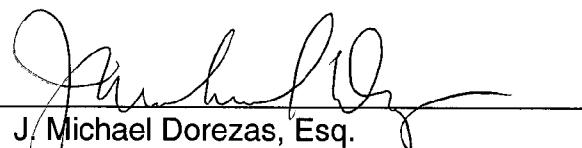
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT was served on the 21 day of May, 2001, by United States Mail, First Class, postage prepaid, addressed to the following:

Paul E. Cherry, Esquire
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288
(Attorney for Plaintiffs)

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(412) 263-3360
(Attorney for Defendants WALTER R.
ZWILLING and JOHNSON MOTORS,
INC.)

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE

BY: 

J. Michael Dorezas, Esq.
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:

: Memorandum of Law in Support of
Preliminary Objections

: FILED ON BEHALF OF:
: Defendants JAMES ROGER
: WEYANT and SOUTH MAIN
: TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:
: J. Michael Dorezas, Esquire
: PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP
: 401 Allegheny Street
: P.O. Box 415
: Hollidaysburg, PA 16648
: (814) 695-7581

: JURY TRIAL DEMANDED

RECEIVED
JUN 04 2001
COURT ADMINISTRATOR'S
OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

BONNIE L. DONALDSON :
LARRY L. DONALDSON, SR., : CIVIL DIVISION
Plaintiffs :
vs. : No. 01- 563 C.D.
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER :
WEYANT and SOUTH MAIN TRUCKING :
COMPANY, :
Defendants :

MEMORANDUM OF LAW IN SUPPORT OF PRELIMINARY OBJECTIONS

Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, files this memorandum of law in support of its Preliminary Objections to the Complaint filed by Plaintiffs, BONNIE L. DONALDSON and LARRY L. DONALDSON, SR.

FACTS

This action arises from a three car automobile accident which occurred on State Route 119 in Sandy Township, Clearfield County, Pennsylvania, at approximately 9:00 a.m. on April 22, 1999. Plaintiff has alleged that she was lawfully stopped awaiting to make a left hand turn when she was struck from behind by Defendant, WALTER R. ZWILLING and forced into oncoming traffic and struck by Defendant, JAMES ROGER WEYANT. A Complaint was filed and Defendant's, JAMES ROGER WEYANT AND SOUTH MAIN TRUCKING COMPANY filed Preliminary Objections.

ARGUMENT

Motion to Strike and/or for More Specific Pleading:

Pa. R.C.P. 1028(a)(3) Insufficient Specificity in Pleading

Pa.R.C.P. 1019(a) requires "the material facts upon which a cause of action or defense is based shall be stated in a concise and summary form." As such, Plaintiffs are required to include all facts essential to support the claim or claims being made. See Alpha Tau Omega Fraternity v. University of Pennsylvania, 464 A.2d 1349 (Pa. Super 1983). Maddux v. Commonwealth of Pennsylvania, Department of Agriculture, 386 A.2d 620 (Pa. Cmwlth. 1978), held that the Complaint must clearly advise the Defendant what actions or omissions on his or her part are deemed to have been improper. Lastly, the Supreme Court held in Connor v. Allegheny General Hospital, 461 A.2d 600 (Pa. 1983), that the failure to object to bald allegations of negligence would permit the Plaintiffs to change the theory of recovery after the Statute of Limitations has passed.

Subparagraphs (a) and (f) of Paragraph 16 of Plaintiffs' Complaint sets forth the following allegations of negligence:

- (a) Operating his motor vehicle in a careless, reckless and negligent manner;
- (f) Failing to use due care under the circumstances;

Neither of these allegations set forth any facts necessary to support them. Rather, they are bald conclusions of negligence without sufficient factual averments required by the fact pleading rules of the Commonwealth. As such, they are objectionable for two

reasons. First, they fail to clearly advise the Defendants what actions or omissions on their part are deemed to be improper. Subparagraphs (a) and (f) say nothing more than the Defendants were negligent because they were negligent. Such pleading does not fulfill the requirements that the facts essential to support the claim be set forth in the Compliant. The second problem with Subparagraphs (a) and (f) lies in the fact that Defendants' failure to object could permit Plaintiffs to change their theory as the case progresses. By pleading in such a fashion, Plaintiffs are attempting to keep an unfairly broad scope to their Complaint so as to make it difficult for Defendants to properly answer the Complaint and defend the action.

Motion to Strike:

Pa. R.C.P. 1028(a)(2) Impertinent Matter

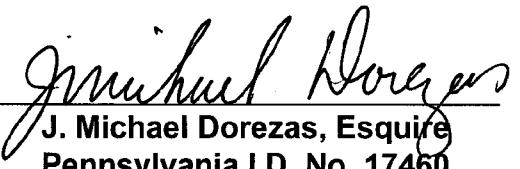
Pa.R.C.P. 1019(i) provides that the pleader shall attach a copy of a writing where the claim or defense is based upon such writing. Plaintiffs' claim arises from an automobile accident and not the police report attached to the Complaint and referenced in Paragraph 12. Further, there is no other basis in the Rules of Civil Procedure for the attachment of a police report to a Complaint. As a result, the police report is impertinent matter which should not have been attached to the Complaint.

CONCLUSION

Based on the above, Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY request this Honorable Court to strike Subparagraphs (a) and (f)

of Paragraph 16 from the Complaint. In the alternative, Defendants request this Court order Plaintiffs to amend their Complaint. Additionally, Defendants request this Honorable Court to strike the Pennsylvania State Police accident report from the Complaint as impertinent matter.

**EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP**

By: 

**J. Michael Dorezas, Esquire
Pennsylvania I.D. No. 17460
P.O. Box 415
Hollidaysburg, PA 16648
(814) 695-7851
Attorney for Defendants
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING
COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the 31 day of May, 2001, by United States Mail, First Class, postage prepaid, addressed to the following:

Paul E. Cherry, Esquire
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288
(Attorney for Plaintiffs)

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(412) 263-3360
(Attorney for Defendants WALTER R.
ZWILLING and JOHNSON MOTORS,
INC.)

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE

BY:



J. Michael Dorezas, Esq.
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE LLP

ATTORNEYS AT LAW

401-03 ALLEGHENY STREET

P. O. BOX 415

MARION D. PATTERSON, JR.
1926-1978

HOLLIDAYSBURG, PENNSYLVANIA 16648-0415

JAMES S. ROUTCH
CLYDE O. BLACK, II
BENJAMIN I. LEVINE, JR.
J. MICHAEL DOREZAS
MICHAEL B. MAGEE
AMY ORR ROSENSTEEL
MICHAEL P. ROUTCH
KATHY J. MAUK
WILLIAM R. BRENNER
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P. O. BOX 5

NASON DRIVE 16673

(814) 224-5162

MERLE K. EVEY
OF COUNSEL

OUR FILE #01563

WRITER'S DIRECT DIAL: 7

May 31, 2001

David Meholic, Court Administrator
CLEARFIELD COUNTY COURTHOUSE
230 E. Market Street
Clearfield, PA 16830

RE: DONALDSON v. WEYANT, et al
NO. 01 - 563 C.D.

Dear Mr. Meholic:

Enclosed for filing is the original Memorandum of Law in Support of Preliminary Objections previously filed on behalf of Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY. I will await receipt of an argument schedule from your office.

Thank you for your attention to this matter.

Sincerely,

J. Michael Dorezas /j
J. Michael Dorezas

JMD:jmm

Enclosure

pc: Paul E. Cherry, Esquire [w/enclosure]
Scott E. Becker, Esquire [w/enclosure]

RECEIVED
MAY 04 2001
COURT ADMINISTRATORS
OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

VS.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

To the within named Plaintiffs...:
You are hereby notified to plead to the
within pleading within 20 days from
service hereof.

By *Scott E. Becker*
Attorney for Defendants

CIVIL DIVISION

No. 01-563 CD

TYPE OF PLEADING:

ANSWER AND NEW MATTER

Filed on Behalf of Defendants:

WALTER R. ZWILLING and
JOHNSON MOTORS, INC.

Counsel of Record for This Party:

SCOTT E. BECKER, ESQUIRE
PA I.D. #19671

Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

FILED

JUN 11 2001

William A. Shaw
Prothonotary

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and)	CIVIL DIVISION
LARRY L. DONALDSON, SR.,)	
)	No. 01-563 CD
Plaintiffs)	
)	
VS.)	
)	
WALTER R. ZWILLING, JOHNSON)	
MOTORS, INC., JAMES ROGER)	
WEYANT and SOUTH MAIN TRUCKING))	
COMPANY,)	
)	
Defendants)	

ANSWER AND NEW MATTER

AND NOW, come Walter R. Zwilling and Johnson Motors, Inc., two of the Defendants, by their attorney, Scott E. Becker, and make this Answer and New Matter to the Complaint for the reasons set forth.

- 1-2. The averments of Paragraphs 1 through 2 of the Complaint are admitted.
3. The averments of Paragraph 3 of the Complaint are denied. The Defendant, Walter R. Zwilling, resides at 50 W. Main Street, Reynoldsville, Pennsylvania 15851-1019.
4. The averments of Paragraph 4 of the Complaint are denied. The Defendant, Johnson Motors, Inc., is located at Blinker Parkway, Dubois, Pennsylvania 15108.
- 5-6. The averments of Paragraphs 5 and 6 of the Complaint do not pertain to these Defendants and thus no answer on their part is required.

7. To the extent the averments of Paragraph 7 of the Complaint apply to these Defendants, such averments are denied by operation of Pennsylvania Rule of Civil Procedure 1029(d) as those averments consist exclusively of legal conclusions without factual contact to which an answer would be required.

8. The averments of Paragraph 8 of the Complaint are admitted.

9. The averments of Paragraph 9 of the Complaint are admitted.

10. The averments of Paragraph 10 of the Complaint do not pertain to these Defendants and thus no answer on their part is required.

11-17. The averments of Paragraphs 11 through 17 of the Complaint are denied by operation of Pennsylvania Rule of Civil Procedure 1029(e) as this is an action seeking monetary relief for bodily injury wherein such averments may be denied generally.

18. In response to the averments of Paragraph 18 of the Complaint, to the extent such averments incorporate by reference the averments of Paragraphs 1 through 17, these Defendants likewise incorporate their answers thereto as though the same were set forth in full herein.

19-26. The averments of Paragraphs 19 through 26 of the Complaint are denied by operation of Pennsylvania Rule of Civil Procedure 1029(e) as this is an action seeking monetary relief for bodily injury wherein such averments may be denied generally.

27. To the extent Paragraph 27 of the Complaint incorporates by reference the averments of Paragraphs 1 through 26 thereof, these Defendants likewise incorporate by reference their answers thereto as though the same were set forth in full herein.

28-31. The averments of Paragraphs 28 through 31 of the Complaint are denied by operation of Pennsylvania Rule of Civil Procedure 1029(e) as this is an action seeking monetary relief for bodily injury wherein such averments may be denied generally.

WHEREFORE, Defendants, Walter R. Zwilling and Johnson Motors, Inc., deny liability to the Plaintiffs and demand judgment on their behalf.

NEW MATTER

32. These Defendants plead as an affirmative defense pursuant to Pennsylvania Rule of Civil Procedure 1030 the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law as a complete bar and/or limitation to Plaintiffs' cause of action including, but not limited to, the provisions of Section 1705(d) thereof.

WHEREFORE, these Defendants raise as a bar or limitation to Plaintiffs' cause of action the aforementioned affirmative defense and demand judgment on their behalf.

Respectfully submitted,

By 
SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

VERIFICATION

I, ROBERT JOHNSON, an authorized representative of JOHNSON MOTORS, INC., do hereby verify that the averments of fact set forth in the foregoing Answer and New Matter are true and correct based on knowledge, information and belief.

I understand that false statements herein are made subject to penalty of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATED: 6/5/01

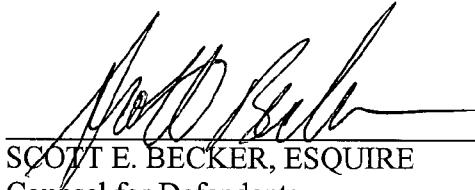

(Signature)
Title: Pres

CERTIFICATE OF SERVICE

I, Scott E. Becker, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Answer and New Matter by first-class mail, postage pre-paid on June 7th, 2001, upon the following counsel of record:

Paul E. Cherry, Esquire
Cherry & Cherry
23 East Park Avenue
DuBois, Pennsylvania 15801

J. Michael Dorezas, Esquire
401 Allegheny Street
P.O. Box 415
Hollidaysburg, Pennsylvania 16648


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

FILED

JUN 11 2001 *as*
6/11/01
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

: No. 01 - 563 - C.D.
: Type of Case: CIVIL
: Type of Pleading: PLAINTIFFS' ANSWER
: TO NEW MATTER OF DEFENDANTS,
: WALTER R. ZWILLING and JOHNSON
: MOTORS, INC.
: Filed on Behalf of: PLAINTIFFS
: Counsel of Record for this Party
: PAUL E. CHERRY, ESQ.
: Supreme Court No.42945
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

JUN 10 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and	:
LARRY L. DONALDSON, SR.,	:
Plaintiffs	:
vs.	No. 01-563-C.D.
WALTER R. ZWILLING, JOHNSON	:
MOTORS, INC., JAMES ROGER	:
WEYANT and SOUTH MAIN TRUCKING	:
COMPANY,	:
Defendants	:

PLAINTIFFS' ANSWER TO NEW MATTER OF DEFENDANTS,

WALTER R. ZWILLING AND JOHNSON MOTORS, INC.

AND NOW, comes the Plaintiffs, BONNIE L. DONALSON and LARRY L. DONALSON, SR., by and through their attorneys, CHERRY & CHERRY, who file the following Plaintiffs' Answer to New Matter of Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., and in support thereof aver the following;

32. Denied. The allegations contained in Paragraph 32 of Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., Answer and New Matter are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

WHEREFORE, Plaintiffs, BONNIE L. DONALDSON and LARRY L. DONALDSON, SR., demand that judgment be entered in their favor and against Defendants, in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00), exclusive of interest and costs of suit.

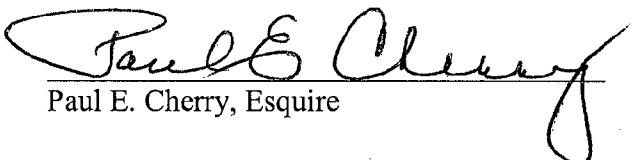
Respectfully submitted,
CHERRY & CHERRY



Paul E. Cherry
Attorney for Plaintiffs

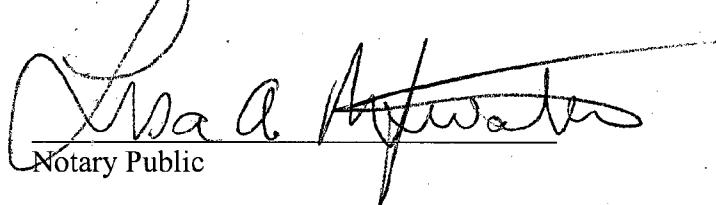
COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF CLEARFIELD :

PAUL E. CHERRY, Esquire, being duly sworn according to law deposes and says that he is the attorney for Plaintiffs in the foregoing action; that the facts set forth in the foregoing Plaintiffs' Answer to New Matter of Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., are true and correct based upon information received from the Plaintiffs and after his own diligent inquiry, and that an Affidavit of the Plaintiffs can be supplied at a later date upon request.



Paul E. Cherry

Sworn to and subscribed before
me this 15th day of June, 2001.



Lisa A. Fitzwater

Notary Public

Notarial Seal
Lisa A. Fitzwater, Notary Public
City of DuBois, Clearfield County
My Commission Expires May 16, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

No. 01 - 563 - C.D.

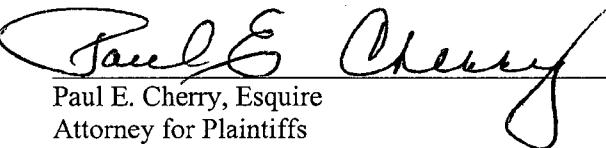
WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

CERTIFICATE OF SERVICE

PAUL E. CHERRY, ESQUIRE, certifies that as counsel for the Plaintiffs in the above-captioned action, he served a true and correct copy of the Plaintiffs' Answer to New Matter of Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., on June 15, 2001, to Scott E. Becker, Esquire, counsel for the Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., at Bonacci, Muchow & Redman, 870 Six PPG Place, Pittsburgh, PA 15222, and on J. Michael Dorezas, Esquire, counsel for Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING COMPANY, at Evey, Routchm Black, Dorezas, Magee & Levine, LLP, 401-03 Allegheny Street, P.O. Box 415, Hollidaysburg, PA 16648-0415, by U.S. Postal Service, First-class mail, postage prepaid.

CHERRY & CHERRY


Paul E. Cherry, Esquire
Attorney for Plaintiffs

FILED

JAN 19 2001

12/10/01
William A. Shaw
Prothonotary

Cherry & Cherry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

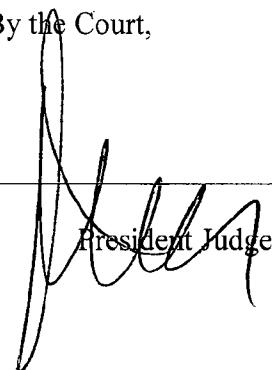
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and :
LARRY L. DONALDSON :
: :
-vs- : No. 01 - 563 - CD
: :
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER :
WEYANT, and SOUTH MAIN :
TRUCKING COMPANY :
:

ORDER

NOW, this 14th day of August, 2001, following argument and briefs into Preliminary Objections filed on behalf of Defendants James Roger Weyant and South Main Trucking Company, it is the ORDER of this Court that objections in the nature of a request for more specific pleadings shall be and are hereby sustained to the extent that Plaintiffs prove, with regards to paragraphs 16(a and f) shall be restricted to those theories of negligence set forth within the Complaint and Defendants' Motion to Strike the Police Report attached to said Complaint shall be and is hereby dismissed but Plaintiffs shall be precluded from exhibiting said report to the jury.

By the Court,



President Judge

FILED

AUG 15 2001

William A. Shaw
Prothonotary

FILED
OCT 7 2001
AUG 15 2001
William A. Shadice Dorecas
Prothonotary

W.A.S.

W.A.S.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:

: Answer and New Matter

: of Defendants James Roger Weyant
: and South Main Trucking Co.

: FILED ON BEHALF OF:

: Defendants JAMES ROGER
: WEYANT and SOUTH MAIN
: TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:

: J. Michael Dorezas, Esquire
: PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP

: 401 Allegheny Street

: P.O. Box 415

: Hollidaysburg, PA 16648

: (814) 695-7581

: JURY TRIAL DEMANDED

FILED

AUG 31 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and	:	CIVIL DIVISION
LARRY L. DONALDSON, SR.,	:	
Plaintiffs	:	No. 01 - 563 C.D.
vs.		
WALTER R. ZWILLING, JOHNSON	:	
MOTORS, INC., JAMES ROGER WEYANT,	:	
and SOUTH MAIN TRUCKING COMPANY,	:	
Defendants.	:	

NOTICE TO PLEAD

TO: BONNIE L. DONALDSON and LARRY L. DONALDSON, Plaintiffs:
c/o Paul E. Cherry, Esquire
23 East Park Avenue
DuBois, PA 15801

WALTER R. ZWILLING and JOHNSON MOTORS, INC., Defendants:
c/o Scott E. Becker, Esquire
Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, PA 15222

You are hereby notified to file a written response to the enclosed New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP

By: 
J. Michael Dorezas, Esq.
PA I.D. #: 17460
401 Allegheny Street
Hollidaysburg, PA 16648
(814) 695-7581

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and	:	CIVIL DIVISION
LARRY L. DONALDSON, SR.,	:	
Plaintiffs	:	No. 01 - 563 C.D.
:		
vs.	:	
:		
WALTER R. ZWILLING, JOHNSON	:	
MOTORS, INC., JAMES ROGER WEYANT,	:	
and SOUTH MAIN TRUCKING COMPANY,	:	
Defendants.	:	

ANSWER AND NEW MATTER

AND NOW, come the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, by and through their attorneys, EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP, and file the within Answer and New Matter, where the following is a more complete statement:

1. Admitted.
2. Denied, for after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment in paragraph 2 and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.
3. Admitted.
4. Admitted.
5. The averment of paragraph 5 is denied as stated. On the contrary, the Defendant James Roger Weyant resides at 320 South First Street, Bellwood, Blair County, Pennsylvania.
6. Admitted.

7. The averments of paragraph 7 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, it is admitted that on April 22, 1999, at approximately 9:00 a.m., while operating a motor vehicle on State Route 119 in Sandy Township, Clearfield County, Pennsylvania, the Defendant JAMES ROGER WEYANT was then and there acting as an agent, servant or employee of Defendant SOUTH MAIN TRUCKING COMPANY and was within the course and scope of his employment at the aforesaid time and place.

8. Denied, for after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 8 and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

9. Admitted.

10. Admitted.

11. Denied, for after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 11 and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

12. Admitted in part and denied in part. The averments of paragraph 12, to the extent that the same were on the date and time stated, Defendant Walter R. Zwilling was driving a vehicle owned by the Defendant Johnson Motors, Inc. at an apparent excessive rate of speed in a southerly direction on State Route 119 immediately behind the vehicle being driven by Plaintiff, Bonnie L. Donaldson, when he struck the rear of his vehicle into the rear of the Plaintiff's vehicle pushing Plaintiff's vehicle across the center line of the

highway into the path of the vehicle operated by Defendant JAMES ROGER WEYANT, which said vehicle was owned by Defendant, SOUTH MAIN TRUCKING COMPANY. The remaining averments of paragraph 12 are specifically denied. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of said paragraph 12 and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

13. Denied, for after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment and the same is therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of this cause.

14. The averments of paragraph 14, and the subparagraphs thereof, are directed to a Defendant other than the within Answering Defendants; therefore, no response is required by the within Answering Defendants to paragraph 14.

15. Denied, for after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averment and the same is therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of this cause.

16. The averments of paragraph 16, and the subparagraphs thereto, are conclusions of law to which no reply is necessary. To the extent any answer is deemed necessary, the averments are denied. By way of further answer, these Answering Defendants aver that the Defendant JAMES ROGER WEYANT was at all times relevant, carefully, lawfully, and properly operating his motor vehicle upon the highway.

By way of further answer:

- (a) Denied pursuant to Pa.R.C.P. 1029(e);
- (b) Denied pursuant to Pa.R.C.P. 1029(e);
- (c) Denied pursuant to Pa.R.C.P. 1029(e);
- (d) Denied pursuant to Pa.R.C.P. 1029(e);
- (e) Denied pursuant to Pa.R.C.P. 1029(e);
- (f) Denied pursuant to Pa.R.C.P. 1029(e);
- (g) Denied pursuant to Pa.R.C.P. 1029(e);
- (h) Denied pursuant to Pa.R.C.P. 1029(e);
- (i) Denied pursuant to Pa.R.C.P. 1029(e), and
- (j) Denied pursuant to Pa.R.C.P. 1029(e).

17. The averments of paragraph 17 are conclusions of law to which no reply is necessary.

COUNT I

18. The Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, incorporate herein by reference their answers set forth in paragraphs 1 through 17, as though the same were fully set forth herein at length.

19. Denied, for after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 19 and the same are therefore denied, and to the extent relevant, strict proof is demanded at the trial of the cause.

20. The averments of paragraph 20 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are therefore denied. Furthermore, and after reasonable investigation, these Answering Defendants are without

knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

21. The averments of paragraph 21 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are therefore denied. Furthermore, and after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

22. Denied, for after reasonable investigation, the Defendants are without knowledge or information sufficient to form a belief as to the averments of paragraph 22, and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

23. The averments of paragraph 23 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are therefore denied. Furthermore, and after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

24. The averments of paragraph 24 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are therefore denied. Furthermore, and after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments and the

same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

25. The averments of paragraph 25 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are therefore denied. Furthermore, and after reasonable investigation, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

26. Admitted.

WHEREFORE, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, demand that Plaintiffs' Complaint, including Count I, be dismissed and judgment entered in their favor.

COUNT II

27. The Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, incorporate herein by reference the allegations set forth in paragraphs 1 through 26 as though the same were fully set forth herein at length.

28. The averments of paragraph 28 are conclusions of law to which no reply is necessary. To the extent any response is deemed necessary, these Answering Defendants after reasonable investigation are without knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

29. The averments of paragraph 29 are conclusions of law to which no reply is necessary. To the extent any response is deemed necessary, these Answering

Defendants after reasonable investigation are without knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

30. The averments of paragraph 30 are conclusions of law to which no reply is necessary. To the extent any response is deemed necessary, these Answering Defendants after reasonable investigation are without knowledge or information sufficient to form a belief as to the truth of the averments and the same are therefore denied, and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

31. Admitted.

WHEREFORE, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, demand that Plaintiffs' Complaint demands that Plaintiffs' Complaint be dismissed against the Answering Defendants and judgment entered in favor of these Answering Defendants.

NEW MATTER

TO: BONNIE L. DONALDSON and LARRY L. DONALDSON, SR., PLAINTIFFS

32. Plaintiffs' cause of action is limited or barred by virtue of the Pennsylvania Motor Vehicle Financial Responsibility Act, and the application of the limited tort coverage selected by the Plaintiffs. The Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, assert all defenses and limitations on damages available to said Defendants by virtue of the Pennsylvania Financial Responsibility Act.

33. The Answering Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, sets forth the defense of sudden emergency, which emergency was caused by the careless, reckless, and negligent conduct of Defendants Walter R.

Zwilling and Johnson Motors, Inc. which said negligence is more fully set forth in paragraphs 12 and 14 of Plaintiffs' Complaint, the same of which is incorporated herein by reference and made a part hereof as if the same were fully set forth.

34. In the event it is established that the Plaintiffs are insured under a limited tort policy, Plaintiffs' claims are barred as Plaintiffs injuries do not meet the verbal threshold requirement of a limited tort action.

35. The Answering Defendants reserve all affirmative defenses as provided for pursuant to Pa.R.C.P. 1030(b).

36. At all times relevant hereto, Defendant, JAMES ROGER WEYANT, acting as an agent, servant or employee of Defendant, SOUTH MAIN TRUCKING COMPANY, operated his vehicle in a reasonable, safe, and prudent manner under the conditions then and there existing.

37. The injuries, losses, and damages, if any, suffered by Plaintiffs are as a result of actions or conduct of individuals other than these Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY.

WHEREFORE, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, respectfully request that Plaintiffs' Complaint against these Answering Defendants be dismissed and judgment entered in their favor.

NEW MATTER PURSUANT TO PA.R.C.P. 2252(d)

TO: WALTER R. ZWILLING and JOHNSON MOTORS, INC.

38. Paragraphs 1 through 37 of the Defendants', JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, Answer and New Matter are incorporated herein by reference as if set forth at length.

39. The Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, hereby join the Defendants Walter R. Zwilling and Johnson Motors, Inc. pursuant to Pa.R.C.P. 2252(d) as Additional Defendants in this matter.

40. The allegations in Plaintiffs' Complaint with regard to the Defendants Walter R. Zwilling and Johnson Motors, Inc. contained in paragraphs 12 and 14 are incorporated herein by reference as if the same were fully set forth at length. To the extent any of these paragraphs refer to the Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, said averments are denied as set forth in the Answer and New Matter of Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY.

41. These Defendants believe and therefore aver that if the Plaintiffs are entitled to recovery, which entitlement is specifically denied, the Defendants Walter R. Zwilling and Johnson Motors, Inc. are alone liable, or liable over to the Plaintiffs for the cause of action asserted.

42. These Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, join Walter R. Zwilling and Johnson Motors, Inc. to protect their rights to contribution in the event it is judicially determined that Walter R. Zwilling and Johnson Motors, Inc. and these Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, are jointly, or jointly and severally liable to the Plaintiffs, existence of any liability on the part of these Defendants is expressly denied. The Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, hereby assert that they are entitled to indemnification from Walter R. Zwilling and Johnson Motors, Inc. These Answering Defendants hereby assert a claim therefor.

WHEREFORE, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, demand judgment be entered in their favor and against the Defendants Walter R. Zwilling and Johnson Motors, Inc.

Respectfully submitted,

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: 

J. Michael Dorezas, Esquire
PA I.D. #17460
401 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
(814) 695-1750
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

VERIFICATION

I, JAMES ROGER WEYANT, the undersigned aver that the statements of fact contained in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief, and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.


James Roger Weyant

Date: 8/25/01

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER AND NEW MATTER was served on the 30 day of August, 2001, by United States Mail, First Class, postage prepaid, addressed to the following:

Paul E. Cherry, Esquire
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288
(Attorney for Plaintiffs)

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(412) 263-3360
(Attorney for Defendants WALTER R. ZWILLING and JOHNSON MOTORS, INC.)

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE

BY: 
J. Michael Dorezas, Esq.
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:
: PRAECIPE FOR FILING
: VERIFICATION

: FILED ON BEHALF OF:
: Defendants JAMES ROGER
: WEYANT and SOUTH MAIN
: TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:
: J. Michael Dorezas, Esquire
: PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP
: 401 Allegheny Street
: P.O. Box 415
: Hollidaysburg, PA 16648
: (814) 695-7581

: JURY TRIAL DEMANDED

FILED

SEP 04 2001

111-351 no cc
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and : CIVIL DIVISION
LARRY L. DONALDSON, SR., :
Plaintiffs : No. 01 - 563 C.D.
vs. :
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER WEYANT, :
and SOUTH MAIN TRUCKING COMPANY, :
Defendants. :
.

PRAECIPE

TO: PROTHONOTARY

Please file of record of the Verification of the Defendant, SOUTH MAIN TRUCKING COMPANY, to the Answer and New Matter filed on behalf of South Main Trucking Company.

Date: August 31, 2001

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY:


J. Michael Dorezas, Esquire

PA I.D. #17460

401 Allegheny Street

Hollidaysburg, PA 16648

(814) 695-7581

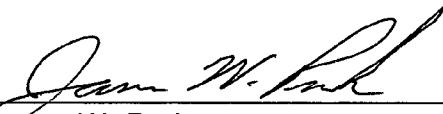
Attorney for Defendants,

JAMES ROGER WEYANT and

SOUTH MAIN TRUCKING COMPANY

VERIFICATION

I, JAMES W. PARK, President of SOUTH MAIN TRUCKING COMPANY, the undersigned aver that the statements of fact contained in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief, and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.



James W. Park
President of SOUTH MAIN TRUCKING COMPANY

Date: 8-29-01

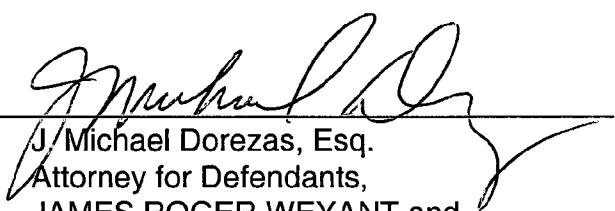
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE TO FILE
VERIFICATION was served on the 31 day of August, 2001, by
United States Mail, First Class, postage prepaid, addressed to the following:

Paul E. Cherry, Esquire
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288
(Attorney for Plaintiffs)

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(412) 263-3360
(Attorney for Defendants WALTER R.
ZWILLING and JOHNSON MOTORS,
INC.)

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE

BY: 

J. Michael Dorezas, Esq.
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

: No. 01 - 563 - C.D.
: Type of Case: CIVIL
: Type of Pleading: PLAINTIFFS' ANSWER
: TO NEW MATTER OF DEFENDANTS,
: JAMES ROGER WEYANT and SOUTH
: MAIN TRUCKING, CO.
: Filed on Behalf of: PLAINTIFFS
: Counsel of Record for this Party
: PAUL E. CHERRY, ESQ.
: Supreme Court No.42945
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

SEP 12 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs. : No. 01-563-C.D.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

PLAINTIFFS' ANSWER TO NEW MATTER OF DEFENDANTS,
JAMES ROGER WEYANT AND SOUTH MAIN STREET TRUCKING, CO.

AND NOW, comes the Plaintiffs, BONNIE L. DONALSON and LARRY L. DONALSON, SR., by and through their attorneys, CHERRY & CHERRY, who file the following Plaintiffs' Answer to New Matter of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO., and in support thereof aver the following;

32. Denied. The allegations contained in Paragraph 32 of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO.'s, Answer and New Matter are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

33. Denied. The allegation contained in Paragraph 33 of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO.'s, Answer and New Matter is a conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

34. Denied. The allegation contained in Paragraph 34 of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO.'s, Answer and New Matter is a conclusion of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, is denied. By way of further answer, however, Plaintiff, BONNIE L. DONALDSON, sustained very serious and permanent injuries, serious impairment of bodily functions and permanent serious disfigurement as a result of the motor vehicle accident which occurred on April 22, 1999.

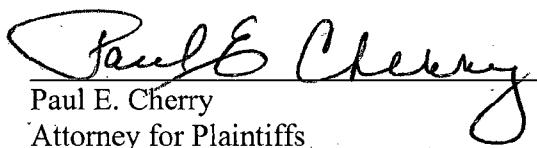
35. Denied. The allegations contained in Paragraph 35 of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO.'s, Answer and New Matter are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

36. Denied. The allegations contained in Paragraph 36 of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO.'s, Answer and New Matter are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied. By way of further answer, Defendant, JAMES ROGER WEYANT, acting as an agent, servant or employee of Defendant, SOUTH MAIN STREET TRUCKING COMPANY, operated his vehicle in a negligent, careless, reckless, and unsafe manner as set forth in Paragraph 16 of Plaintiffs' Complaint.

37. Denied. The allegations contained in Paragraph 37 of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING, CO.'s, Answer and New Matter are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

WHEREFORE, Plaintiffs, BONNIE L. DONALDSON and LARRY L. DONALDSON, SR., demand that judgment be entered in their favor and against Defendants, in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00), exclusive of interest and costs of suit.

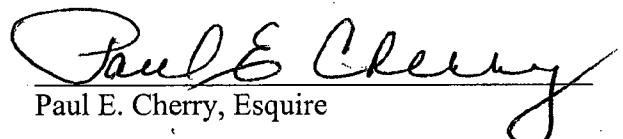
Respectfully submitted,
CHERRY & CHERRY



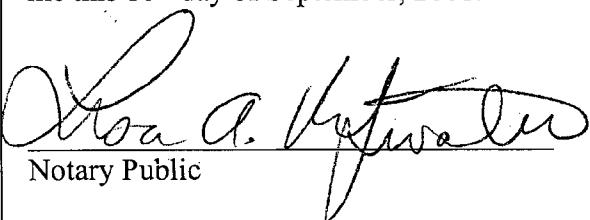
Paul E. Cherry
Paul E. Cherry
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF CLEARFIELD :
:

PAUL E. CHERRY, Esquire, being duly sworn according to law deposes and says that he is the attorney for Plaintiffs in the foregoing action; that the facts set forth in the foregoing Plaintiffs' Answer to New Matter of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING CO., are true and correct based upon information received from the Plaintiffs and after his own diligent inquiry, and that an Affidavit of the Plaintiffs can be supplied at a later date upon request.


Paul E. Cherry, Esquire

Sworn to and subscribed before
me this 10th day of September, 2001.


Lisa A. Fitzwater
Notary Public

Notarial Seal
Lisa A. Fitzwater, Notary Public
City of DuBois, Clearfield County
My Commission Expires May 16, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs. : No. 01-563-C.D.

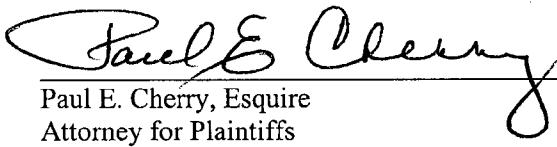
WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

CERTIFICATE OF SERVICE

PAUL E. CHERRY, ESQUIRE, certifies that as counsel for the Plaintiffs in the above-captioned action, he served a true and correct copy of the Plaintiffs' Answer to New Matter of Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING COMPANY, on September 10, 2001, to Scott E. Becker, Esquire, counsel for the Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., at Bonacci, Muchow & Redman, 870 Six PPG Place, Pittsburgh, PA 15222, and on J. Michael Dorezas, Esquire, counsel for Defendants, JAMES ROGER WEYANT and SOUTH MAIN STREET TRUCKING COMPANY, at Evey, Routhcm Black, Dorezas, Magee & Levine, LLP, 401-03 Allegheny Street, P.O. Box 415, Hollidaysburg, PA 16648-0415, by U.S. Postal Service, First-class mail, postage prepaid.

CHERRY & CHERRY


Paul E. Cherry, Esquire
Attorney for Plaintiffs

FILED

SEP 12 2001

2001CNOCC

William A. Shaw

Prothonotary

SP4

Cherry & Kinney
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

VS.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

CIVIL DIVISION

No. 01-563 CD

TYPE OF PLEADING:

**REPLY TO NEW MATTER
PURSUANT TO RULE 2252(d)**

Filed on Behalf of Defendants:

WALTER R. ZWILLING and
JOHNSON MOTORS, INC.

Counsel of Record for This Party:

SCOTT E. BECKER, ESQUIRE
PA I.D. #19671

Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

FILED

MAR 06 2002

M 10:42/no/c

William A. Shaw
Prothonotary

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and)	CIVIL DIVISION
LARRY L. DONALDSON, SR.,)	
)	No. 01-563 CD
Plaintiffs)	
)	
VS.)	
)	
WALTER R. ZWILLING, JOHNSON)	
MOTORS, INC., JAMES ROGER)	
WEYANT and SOUTH MAIN TRUCKING)	
COMPANY,)	
)	
Defendants)	

REPLY TO NEW MATTER
PURSUANT TO RULE 2252(d)

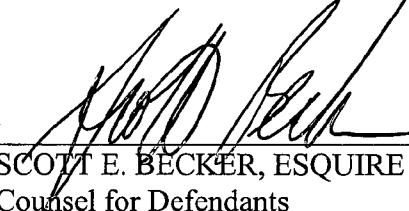
AND NOW, come the Defendants, Walter R. Zwilling and Johnson Motors, Inc., by their attorney, and file this Reply to New Matter Pursuant to Rule 2252(d) filed on behalf of co-Defendants, James Roger Weyant and South Main Trucking Company, as set forth below:

38-42. The averments of Paragraphs 38 through 42 of the New Matter are denied by operation of Pennsylvania Rule of Civil Procedure 1029(d) as the averments consist exclusively of legal conclusions without factual content to which an answer is necessary. To the extent an answer is necessary, these Defendants incorporate by reference their Answer to Plaintiffs' Complaint as though the same were set forth in full herein.

WHEREFORE, Defendants, Walter R. Zwilling and Johnson Motors, Inc., deny liability to co-Defendants, James Roger Weyant and South Main Trucking Company, and demand judgment on their behalf.

Respectfully submitted,

By


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

VERIFICATION

I, ROBERT G. JOHNSON, an authorized representative of JOHNSON MOTORS, INC., do hereby verify that the averments of fact set forth in the foregoing Reply to New Matter Pursuant to Rule 2252(d) are true and correct based on knowledge, information and belief.

I understand that false statements herein are made subject to penalty of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATED: 2/17/02



(Signature)

Title: President

100% of the time. The first time I did it, I

wasn't sure if it was a good idea, but I did it.

It was a good idea, and I'm glad I did it.

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MAR. 01 2002

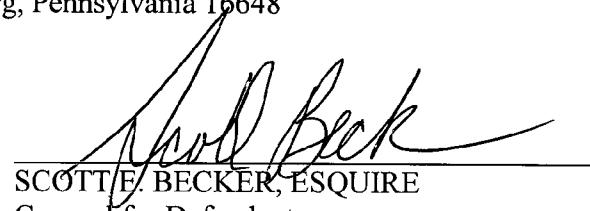
Donaldson

CERTIFICATE OF SERVICE

I, Scott E. Becker, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Reply to New Matter Pursuant to Rule 2252(d) by first-class mail, postage pre-paid on March 4, 2002, upon the following counsel of record:

Paul E. Cherry, Esquire
Cherry & Cherry
23 East Park Avenue
DuBois, Pennsylvania 15801

J. Michael Dorezas, Esquire
401 Allegheny Street
P.O. Box 415
Hollidaysburg, Pennsylvania 16648


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and :
LARRY L. DONALDSON :
: :
-vs- : No. 01 - 563 - CD
: :
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER :
WEYANT, and SOUTH MAIN :
TRUCKING COMPANY :
:

ORDER

NOW, this 8th day of May, 2002, following status conference into the above-captioned matter, it is the ORDER of this Court that all discovery having any bearing on a Motion for Summary Judgment to be filed on behalf of Defendants James Roger Weyant and South Main Trucking Company shall be completed within 60 days from date hereof.

By the Court,

President Judge

FILED

MAY 08 2002

William A. Shaw
Prothonotary

FILED

014:00
MAY 08 2002

William A. Shaw
Prothonotary

1CC Paul Cherry
1CC Scott Becker, Esq.
1CC Dorezas

E
KZL

(A)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:

: **Motion for Summary Judgment**

: FILED ON BEHALF OF:

: Defendants JAMES ROGER

: WEYANT and SOUTH MAIN

: TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:

: J. Michael Dorezas, Esquire

: PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP

: 401 Allegheny Street

: P.O. Box 415

: Hollidaysburg, PA 16648

: (814) 695-7581

: JURY TRIAL DEMANDED

FILED

BT
SEP 18 2002
M 11:16 100 CC
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and	:	CIVIL DIVISION
LARRY L. DONALDSON, SR.,	:	
Plaintiffs	:	No. 01 - 563 C.D.
:		
vs.	:	
:		
WALTER R. ZWILLING, JOHNSON	:	
MOTORS, INC., JAMES ROGER WEYANT,	:	
and SOUTH MAIN TRUCKING COMPANY,	:	
Defendants.	:	

**DEFENDANTS', JAMES ROGER WEYANT AND
SOUTH MAIN TRUCKING COMPANY,
MOTION FOR SUMMARY JUDGMENT**

AND NOW, come the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, by their undersigned counsel, and respectfully requests this Court for entry of Summary Judgment in favor of JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY, and requests that the Complaint of the Plaintiffs, Bonnie L. Donaldson and Larry L. Donaldson be dismissed with prejudice, against James Roger Weyant and South Main Trucking Company.

In support of their Motion, the Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY aver the following:

**I. MOTION FOR SUMMARY JUDGMENT ON THE BASIS OF
NO EVIDENCE TO GO FORWARD AGAINST THE DEFENDANTS
JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY**

1. This action arises out of an accident which occurred on April 22, 1999 on State Route 119 in Sandy Township, Clearfield County, Pennsylvania.

2. On the aforesaid date, at approximately 9:00 a.m., the Plaintiff, Bonnie L. Donaldson, was operating a vehicle owned by the Plaintiffs in a southerly direction when she turned on her left turn signal and applied her brakes to indicate that she was turning from State Route 119 left into a car wash along the highway at which time a vehicle driven by Walter R. Zwilling, and owned by the Defendant Johnson Motors, Inc. struck the rear of Bonnie L. Donaldson's vehicle pushing the Plaintiff's vehicle across the center line of the highway into the path of the vehicle operated by the Defendant James Roger Weyant. The vehicle being driven by James Roger Weyant was owned by the Defendant South Main Trucking Company. (See paragraphs 11 and 12 of Plaintiffs' Complaint.)

3. Plaintiff sets forth in paragraphs 14 and 15 of Plaintiffs' Complaint the allegations of negligence against the Defendant Walter R. Zwilling.

4. In paragraph 16 of Plaintiffs' Complaint, Plaintiff alleges the following negligence against the Defendant James Roger Weyant which the same is attributed to the Defendant South Main Trucking Company by virtue of vicarious liability. The allegations of negligence are as follows:

- (a) operating his motor vehicle in a careless, reckless and negligent manner;
- (b) operating his motor vehicle at an excessive rate of speed under the circumstances;
- (c) Operating the motor vehicle without due regard to the rights, safety, wellbeing, and position of the Plaintiff, BONNIE L. DONALDSON.
- (d) Failing to have his motor vehicle under the proper control so as to prevent this vehicle from striking the Plaintiffs' motor vehicle;
- (e) failing to keep a proper lookout;
- (f) failing to use due care under the circumstances;

- (g) failing to notice the motor vehicle of the Plaintiffs;
- (h) upon noticing the motor vehicle of Plaintiffs, failing to yield the right-of-way to the Plaintiffs' vehicle;
- (i) failing to take evasive action in order to avoid impacting with Plaintiffs' vehicle;
- (j) failing to apply his brakes in sufficient time to avoid striking Plaintiffs' vehicle;

5. By Order of this Court dated August 14, 2001, this Court restricted application of paragraphs 16(a) and 16(f) to the theories of negligence specifically set forth within the Complaint.

6. Discovery in this matter has been closed by Order as of July 9, 2002, of this Honorable Court dated May 8, 2002.

7. The relevant pleadings, admissions, depositions, interrogatories, and other documents relevant to this Motion have been filed of record or are attached as Exhibits to this Motion.

8. In deposition testimony, the Plaintiff Bonnie Donaldson testified that she has no idea whether it was a car or truck or how many cars or trucks were approaching her once she was stopped on Route 219 attempting to make a left hand turn, nor does she have any knowledge of the speed of which any vehicles were traveling as they approached her. (See Plaintiff's deposition pages 104 - 108, line 12; see also Plaintiff's deposition page 21, lines 24 through page 22, line 9).

9. The wife Plaintiff has testified under oath that she can offer no evidence of negligence against James Roger Weyant.

10. Attached to Plaintiffs' Complaint was the police report which contained a statement of a witness Victor Mancini, which statement does not show any negligence on the part of the Defendant James Roger Weyant.

11. Other than Mr. Mancini identified in the preceding paragraph, no individual has been identified as being a witness to the accident to testify as to the conduct and manner of operation of the vehicle operated by James Roger Weyant.

12. In discovery conducted in this matter, the following questions were directed to Plaintiffs by Interrogatories propounded by these Defendants, with Plaintiffs' answer thereto:

19. **If known to you, your attorney or other representative, set forth the name and home address of the following persons:**

(a) **Those who actually saw all or any part of the accident;**

ANSWER: See copy of Police Report

(b) **Those who were present at or near the scene of the accident;**

ANSWER: See copy of Police Report

35. **State the name and address of each person you expect to call as an expert witness at the trial of this case.**

ANSWER: No expert witnesses listed at this time.

13. Discovery has been closed and no expert has been identified nor an expert report produced of any reconstruction expert to place any responsibility for this accident upon the Defendant James Roger Weyant.

14. No witness, expert or otherwise, has been identified to testify at the time of trial that the actions of James Roger Weyant were negligent as alleged in Plaintiffs' Complaint in paragraph 16.

15. Discovery is complete in this case and although extensive discovery has been undertaken, there is no evidence identified by any party that the conduct of James Roger Weyant was negligent or that his actions caused the injuries sustained by the Plaintiff.

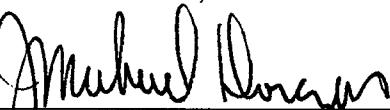
16. The co-Defendants Walter R. Zwilling and Johnson Motors, Inc. through their counsel have advised counsel for the Defendant James Roger Weyant that they have no evidence of negligence on the part of James Roger Weyant and do not oppose the Motion for Summary Judgment of these Defendants.

WHEREFORE, Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY respectfully request that judgment be entered in their favor, and that the Plaintiffs' Complaint be dismissed as against James Roger Weyant and South Main Trucking Company, with prejudice.

Respectfully submitted,

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY:



J. Michael Dorezas, Esquire
PA I.D. #17460
401 Allegheny Street
Hollidaysburg, PA 16648
(814) 695-7581
Attorney for Defendants, JAMES ROGER WEYANT and SOUTH MAIN TRUCKING CO.

1 B. Donaldson - by Mr. Becker

2 you're telling me is based on what someone else
3 told you, please make that clear.

4 A. Okay.

5 Q. I want to separate out your own
6 independent memory of this event, to the extent
7 that you have any, and that which you've been told
8 by other people.

9 A. Okay.

10 Q. Do you understand the distinction?

11 A. Yes.

12 Q. Now, as I understand it you were taken
13 by ambulance from the scene to the local hospital
14 here in DuBois initially. Do you recall that?

15 A. No.

16 Q. Do you recall that you were then life
17 flighted to Allegheny General Hospital?

18 A. No.

19 Q. Do you recall being in Allegheny General
20 Hospital?

21 A. Afterwards?

22 Q. Yeah.

23 A. . . Yes.

24 Q. To pick up from what I was asking you
25 earlier, do you have any recollection of being in

1 B. Donaldson - by Mr. Becker

2. the car before you were taken into the ambulance?

3 A. No.

4 Q. Is it fair to say that from the time
5 before you were struck while you were waiting to
6 make your left up until at some point at Allegheny
7 General Hospital you don't have any recollection of
8 what occurred?

9 A. That's right. I don't

10 Q. All right. Do you know how long you had
11 been at the hospital, at Allegheny General Hospital
12 before your memory picks up again?

13 A. I don't know what day it was, but I
14 remember when I woke up there was a lot of people
15 in there, and I think I remember asking a friend of
16 mine, how did you get here? What are you doing
17 here?

18 Q. So some point during the week you were
19 at Allegheny General your memory picks up again?

20 A. Yes.

21 Q. All right. With respect to the
22 accident, I have the police report, so I'm not
23 asking you to tell me what the police report says.
24 I would like to know, to the extent that you know,
25 whether there was someone else other than who's

1 B. Donaldson - by Mr. Dorezas

2 Q. Do you remember, ma'am, stopping at the
3 car wash that morning? Do you remember bringing
4 your car to a stop or slowing?

5 A. You mean on the road, not at the car
6 wash?

7 Q. Yeah, on 219 south.

8 A. Excuse me. Ask me that again.

9 Q. What I'm trying to get an understanding
10 is, I believe you said that you had slowed or
11 stopped your car because traffic was coming the
12 opposite direction northbound on 219. Do you
13 remember that?

14 A. Yeah, they weren't like right -- there
15 was one I remember passed me, because, you know,
16 you always look when somebody passes you, and then
17 there must have been more coming on down there or
18 something because --

19 Q. Do you have any recollection, do you
20 know today, do you have any memory of observing
21 cars coming towards you on 219?

22 A. No. I just assumed it, because why else
23 would I be stopped? And why else would I have to
24 put a turn signal on if there wasn't somebody
25 coming?

1 B. Donaldson - by Mr. Dorezas

2 Q. Okay. What is the last thing you
3 remember prior to somebody talking to you while you
4 were in the car?

5 A. Prior, before?

6 Q. Yes, what's the last thing you remember
7 before the accident?

8 A. I guess stopping.

9 Q. Do you remember seeing any truck coming
10 toward you?

11 A. Toward me?

12 Q. Yes.

13 A. I don't remember. I don't recall that.
14 I don't know whether it was a truck, a car. I
15 don't know what it was, but I'm just -- I had to be
16 stopped for a reason. I don't know what was
17 coming, but --

18 Q. So is it fair to say you don't remember
19 what was coming toward you, how many cars or
20 trucks?

21 A. How many and that? No, I don't remember
22 how many.

23 Q. Do you remember how many impacts or how
24 many collisions there were there on the highway?
25 Did somebody hit you?

1 B. Donaldson - by Mr. Dorezas

2 A. Do you mean me?

3 Q. Yes.

4 A. If I did know, I don't know now. No.

5 Q. Who did you learn the details about this
6 accident from?

7 A. I don't know that I really knew all of
8 the details ever. I still don't know. I do know
9 that -- oh, wait, it left again. Ask me that
10 again, please.

11 Q. Let me rephrase that question perhaps.

12 The police report which was made in this case
13 indicates that there was a car that struck your
14 vehicle in the rear, and then there was a collision
15 in the northbound lane between your car and a
16 truck. Do you remember seeing that truck before
17 impact?

18 A. I don't know whether it was a car or a
19 truck. I didn't even know if there was a truck
20 behind me until somebody told me. I was just
21 concerned with going across here, you know, into
22 the car wash. So I know there had to be traffic,
23 but don't ask me what. I was stopped. So there
24 had to be traffic.

25 Q. And is it fair to say that at the time

1 B. Donaldson - by Mr. Dorezas

2 you were hit in the rear by the vehicle that hit
3 you in the rear you don't know where the traffic
4 was in the other lane going north?

5 A. I don't know where it was?

6 Q. You don't remember seeing it?

7 A. No, you asked me if I knew if it was a
8 truck. I don't know. I know there was more than
9 one vehicle, and I don't even know what it was that
10 passed me, but I remember that something passed me,
11 and then there had to be more because I was still
12 sitting there.

13 Q. Okay. Do you recall seeing any vehicle
14 approaching?

15 A. Yes, a vehicle, but I don't know if it
16 was a car or truck. You asked me if I knew a truck
17 came. I don't know.

18 Q. The vehicle that was approaching you, do
19 you know how far it was from you when you last saw
20 it?

21 A. Well, it wasn't beside me. It was on
22 down there. It was on down there coming, but it
23 wasn't far enough away from me to go in front of
24 me. Do you know what I mean?

25 Q. You had to wait?

1 B. Donaldson - by Mr. Dorezas

2 A. Yeah, I had to wait.

3 Q. How many cars were between you or how
4 many cars or vehicles were approaching you; do you
5 remember?

6 A. There was more than one. Like I said,
7 there was one this way approaching. There was more
8 than one, but I don't know what. I don't know if
9 it was cars or trucks or a mixture.

10 Q. Do you have any recollection of the
11 speed at which those vehicles were approaching you?

12 A. I have no idea.

13 Q. Do you know a person by the name of
14 Victor Mancini who lives in Brockway?

15 A. Victor Mancini?

16 Q. He's listed as a witness in this
17 accident report.

18 THE WITNESS: Victor Mancini. Isn't that
19 who Kelly married?

20 MR. DONALDSON: I don't have the
21 faintest idea.

22 MR. CHERRY: If you don't know, you
23 don't know.

24 A. I don't know. No.

25 Q. Who did you think it might be?

COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT REPORT



THURST 50

11:54

EXT 7410

9904 5137

28

11:23

PENNDOT USE ONLY

(XX) REFER TO OVERLAY SHEETS

REPORTABLE NON-REPORTABLE

POLICE INFORMATION				ACCIDENT LOCATION			
1. INCIDENT NUMBER	STR 4-99-1421			20. COUNTY	CLEARFIELD 17		
2. AGENCY NAME	SANDY TOWNSHIP			21. MUNICIPALITY	SANDY TOWNSHIP 228		
3. STATION/ PRECINCT	SANDY			PRINCIPAL ROADWAY INFORMATION			
4. INVESTIGATOR	WILLIAM A BEERS			22. ROUTE NO. OR STREET NAME	SR 219		
5. APPROVED BY				23. SPEED LIMIT	35	24. TYPE HIGHWAY	0
6. INVESTIGATION DATE	22 April 99	8. ARRIVAL TIME	0919 AM	25. ACCESS CONTROL	0		
ACCIDENT INFORMATION				INTERSECTING ROAD:			
9. ACCIDENT DATE	0909 AM			26. ROUTE NO. OR STREET NAME			
11. TIME OF DAY	22 April 99			27. SPEED LIMIT	28. TYPE HIGHWAY	29. ACCESS CONTROL	
13. # KILLED	0	14. # INJURED	1	IF NOT AT INTERSECTION:			
16. DID VEHICLE HAVE TO BE REMOVED FROM THE SCENE?	UNIT 1 UNIT 2			30. CROSS STREET OR SEGMENT MARKER	SR 119		
18. HAZARDOUS MATERIALS	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	Y <input checked="" type="checkbox"/>	31. DIRECTION FROM SITE	N <input checked="" type="checkbox"/> E <input type="checkbox"/> W	32. DISTANCE FROM SITE 1000 FT. MI.	
19. PENNDOT PROPERTY	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>		33. DISTANCE WAS	MEASURED <input type="checkbox"/>	ESTIMATED <input checked="" type="checkbox"/>	
20. UNIT #1				34. CONSTRUCTION ZONE	35. TRAFFIC CONTROL DEVICE	PRINCIPAL INTERSECTING DEVICE	
36. LEGALLY PARKED?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	37. REG. PLATE	F 33978F PA			38. STATE PA
39. PA TITLE OR OUT-OF-STATE VIN	1FTLF14YXJN B04316			39. PA TITLE OR OUT-OF-STATE VIN	5G553254		
40. OWNER	Johnson Motors Inc			40. OWNER	LARRY L & BONNIE L DONALSON SR.		
41. OWNER ADDRESS	911 S. BRADY ST			41. OWNER ADDRESS	147 3RD ST		
42. CITY, STATE & ZIPCODE	DuBois, PA 15801			42. CITY, STATE & ZIPCODE	FAIR CREEK, PA 15840		
43. YEAR	1988	44. MAKE	FORD	43. YEAR	1997	44. MAKE	HONDA
45. MODEL - (NOT BODY TYPE)	F-150			46. INS. Y <input checked="" type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>	47. BODY TYPE	48. SPECIAL USAGE	49. VEHICLE OWNERSHIP
47. BODY TYPE	50	48. SPECIAL USAGE	0	49. VEHICLE OWNERSHIP	2	0	1
50. INITIAL IMPACT POINT	12	51. VEHICLE STATUS	0	50. INITIAL IMPACT POINT	6-1	51. VEHICLE STATUS	0
53. VEHICLE GRADIENT	3	54. DRIVER PRESENCE	1	53. VEHICLE GRADIENT	3	54. DRIVER PRESENCE	1
56. DRIVER NUMBER	496-20-8424			57. STATE	PA		
58. DRIVER NAME	WALTER R Willing			58. DRIVER NAME	BONNIE LEE DONALSON		
59. DRIVER ADDRESS	173 TREASURE HATE			59. DRIVER ADDRESS	147 3RD ST		
60. CITY, STATE & ZIPCODE	DuBois, PA 15801			60. CITY, STATE & ZIPCODE	FAIR CREEK, PA 15840		
61. SEX	Y <input checked="" type="checkbox"/>	62. DATE OF BIRTH	08-07-27	63. PHONE	371-8093		
64. COMM. VEH. Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	65. DRIVER CLASS	C			64. COMM. VEH. Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	65. DRIVER CLASS	C
67. CARRIER				67. CARRIER			
68. CARRIER ADDRESS				68. CARRIER ADDRESS			
69. CITY STATE				69. CITY, STATE & ZIPCODE			
EXHIBIT				70. USDOT #	ICC #	PUC #	
tables				74. GVWR	(72) VEH. CONFIG.	(73) CARGO BODY TYPE	74. GVWR
B				77. RELEASE OF HAZMAT	75. NO. OF AXLES	(76) HAZARDOUS MATERIALS	77. RELEASE OF HAZMAT
HAZARDOUS MATERIALS	Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>						Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>

78. RESPONDING EMS AGENCY	EMS						INCIDENT #:	STA-4-99-						
79. MEDICAL FACILITY	DOCT C WEST						ACCIDENT DATE:	22 April 99						
80. PEOPLE INFORMATION							ADDRESS							
A	B	C	D	E	F	G	NAME		H	I	J	K	L	M
1	1	M	71	3	1	0	WALTER ZWILLING T.L. DUBOIS PA		0	-	-	-	-	-
3	1	M	32	3	1	0	JAMES WEYANT BELMWOOD PA		0	-	-	-	-	-
2	1	F	56	3	9	1	BONNIE DONALDSON FALLSCREEK PA		9	99	99	N	9	1

(81) ILLUMINATION	2	(82) WEATHER	0	86. DIAGRAM	BROAD ST CAR WASH		SR219
(83) ROAD SURFACE	1						
84. PENNSYLVANIA SCHOOL DISTRICT (IF APPLICABLE)							
85. DESCRIPTION OF DAMAGED PROPERTY							
OWNER	N/A						
ADDRESS							
PHONE							

87. NARRATIVE - IDENTIFY PRECIPITATING EVENTS, CAUSATION FACTORS, SEQUENCE OF EVENTS, WITNESS STATEMENTS, AND PROVIDE ADDITIONAL DETAILS, LIKE INSURANCE INFORMATION AND LOCATION OF TOWED VEHICLES, IF KNOWN.

UNIT #1 STATED HE WAS GOING SOUTH ON SR219 BEHIND UNIT #2. UNIT #2 MADE A QUICK STOP & APPLIED MY BRAKES AND SLID INTO THE REAR OF UNIT #2 PUSHING UNIT #2 ACROSS THE CENTER LINE INTO THE PATH OF UNIT #3 GOING NORTH ON SR219.

UNIT #2 HUSBAND STATED HE TALKED TO HIS WIFE SHE STATED SHE WAS GOING TO MAKE LEFT TURN INTO CAR WASH WHEN SHE WAS HIT.

WITNESS STATED SAW GLASS HITTING THE ROADSIDE AND CAR CAME ACROSS THE CENTER LINE IN FRONT OF UNIT #3.

INSURANCE INFORMATION	COMPANY	INSURANCE INFORMATION	COMPANY
UNIT 1	UNIVERSAL UNDER WRITERS	UNIT 2	AMERICAN INT.
POLICY NO	169055 A	POLICY NO	112-75-35
88. WITNESSES	NAME	ADDRESS	PHONE
	VICTOR MANCINI	1382 PENA AVE BROOKLYN	265-0901
	NAME	ADDRESS	PHONE

89. VIOLATIONS INDICATED						90. SECTION NUMBERS (ONLY IF CHARGED)					
UNIT 1 Following To Closely						TC NTC					
UNIT 2											
91. PROBABLE USE	92. TYPE TEST	93. RESULTS	NO TEST REFUSE UNK		91. PROBABLE USE	92. TYPE TEST	93. RESULTS	NO TEST REFUSE UNK		94. INVESTIGATION COMPLETE ?	
UNIT 1		0. ____ %			UNIT 2		0. ____ %			YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	

COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT REPORT

(XX) REFER TO OVERLAY SHEETS



REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

POLICE INFORMATION				ACCIDENT LOCATION			
1. INCIDENT NUMBER	STO-4-99-1421			20. COUNTY	CLEARFIELD CODE 17		
2. AGENCY NAME	SANDY Township			21. MUNICIPALITY	SANDY Township CODE 2208		
3. STATION/ PRECINCT	SANDY			PRINCIPAL ROADWAY INFORMATION			
5. INVESTIGATOR	Williams A BEERS			4. PATROL ZONE			
6. APPROVED BY				BADGE NUMBER 1	22. ROUTE NO. OR STREET NAME		
7. INVESTIGATION DATE	04/22/99	8. ARRIVAL TIME	09:19AM	23. SPEED LIMIT	(24) TYPE HIGHWAY	(25) ACCESS CONTROL	
ACCIDENT INFORMATION				INTERSECTING ROAD:			
9. ACCIDENT DATE	04/22/99	10. DAY OF WEEK	Thursday	26. ROUTE NO. OR STREET NAME			
11. TIME OF DAY	09:09 AM	12. NUMBER OF UNITS	3	27. SPEED LIMIT	(28) TYPE HIGHWAY	(29) ACCESS CONTROL	
13. # KILLED	0	14. # INJURED	1	IF NOT AT INTERSECTION:			
16. DID VEHICLE HAVE TO BE REMOVED FROM THE SCENE?	UNIT 3	17. VEHICLE DAMAGE	0 - NONE	30. CROSS STREET OR SEGMENT MARKER			
	UNIT 2	1 - LIGHT	UNIT 3 2	31. DIRECTION FROM SITE	N S E W	32. DISTANCE FROM SITE	FT. MI.
Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Y <input type="checkbox"/> N <input type="checkbox"/>	2 - MODERATE	UNIT 2	33. DISTANCE WAS	MEASURED <input type="checkbox"/>	ESTIMATED <input checked="" type="checkbox"/>	
18. HAZARDOUS MATERIALS	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	19. PENNDOT PROPERTY	Y <input type="checkbox"/> N <input type="checkbox"/>	(34) CONSTRUCTION ZONE	(35) TRAFFIC CONTROL DEVICE	PRINCIPAL INTERSECTING	
UNIT #3				UNIT #2			
36. LEGALLY PARKED?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	37. REG. PLATE	TM10453	38. STATE			
39. PA TITLE OR OUT-OF-STATE VIN	48150536902			39. PA TITLE OR OUT-OF-STATE VIN			
40. OWNER	South Main Trucking Co.			40. OWNER			
41. OWNER ADDRESS	1000 S. MAIN ST			41. OWNER ADDRESS			
42. CITY, STATE & ZIPCODE	GREENSBURG PA 15601			42. CITY, STATE & ZIPCODE			
43. YEAR	1995			44. MAKE			
45. MODEL - (NOT BODY TYPE)	TK			46. INS.			
47. BODY TYPE	69	48. SPECIAL USAGE	0	(49) VEHICLE OWNERSHIP	2	(47) BODY TYPE	48. SPECIAL USAGE
50. INITIAL IMPACT POINT	12	51. VEHICLE STATUS	0	(52) TRAVEL SPEED	35	(50) INITIAL IMPACT POINT	(51) VEHICLE STATUS
53. VEHICLE GRADIENT	2	54. DRIVER PRESENCE	1	(55) DRIVER CONDITION	1	(53) VEHICLE GRADIENT	(54) DRIVER PRESENCE
56. DRIVER NUMBER	21-091-378			57. STATE			
58. DRIVER NAME	JAMES Roger WEYANT			58. DRIVER NAME			
59. DRIVER ADDRESS	320 SOUTH 1ST ST.			59. DRIVER ADDRESS			
60. CITY, STATE & ZIPCODE	BELLWOOD PA 16617			60. CITY, STATE & ZIPCODE			
61. SEX	M			62. DATE OF BIRTH			
62. DATE OF BIRTH	05-01-66			63. PHONE			
64. COMM. VEH. Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	65. DRIVER CLASS A	64. COMM. VEH. Y <input type="checkbox"/> N <input type="checkbox"/>	65. DRIVER CLASS	66. CARRIER			
67. CARRIER	SOUTH Main Trucking Co.			68. CARRIER ADDRESS			
68. CARRIER ADDRESS	1000 S. MAIN ST			69. CITY, STATE & ZIPCODE			
69. CITY, STATE & ZIPCODE	GREENSBURG PA 15601			70. USDOT #	ICC #	PUC #	
70. USDOT #	1096383	ICC #	322-634C	PUC #			
72. VEH. CONFIG. 2	73. CARGO BODY TYPE 2.	74. GVWR	77,000	72. VEH. CONFIG.	73. CARGO BODY TYPE	74. GVWR	
75. NO. OF AXLES 2	(76) HAZARDOUS MATERIALS	77. RELEASE OF HAZMAT	Y <input type="checkbox"/> N <input checked="" type="checkbox"/> UNK <input type="checkbox"/>	75. NO. OF AXLES	(76) HAZARDOUS MATERIALS	77. RELEASE OF HAZMAT	Y <input type="checkbox"/> N <input checked="" type="checkbox"/> UNK <input type="checkbox"/>

81) ILLUMINATION <input checked="" type="checkbox"/> 2 82) WEATHER <input type="checkbox"/> 0 83) ROAD SURFACE <input type="checkbox"/> 1	86. DIAGRAM				
84. PENNSYLVANIA SCHOOL DISTRICT (IF APPLICABLE)					
85. DESCRIPTION OF DAMAGED PROPERTY					
OWNER					
ADDRESS					
PHONE					

87. NARRATIVE - IDENTIFY PRECIPITATING EVENTS, CAUSATION FACTORS, SEQUENCE OF EVENTS, WITNESS STATEMENTS, AND PROVIDE ADDITIONAL DETAILS, LIKE INSURANCE INFORMATION AND LOCATION OF TOWED VEHICLES, IF KNOWN.

Unit #3 STATED GOING NORTH ON SR219 SAW UNIT #1 RUN INTO THE REAR OF UNIT #2 PUSHING HER ACROSS THE CENTER LINE INTO MY LANE OF TRAVEL THERE WASN'T ANYTHING I COULD DO TO AVOID FROM HITTING UNIT #2.

INSURANCE INFORMATION		COMPANY		INSURANCE INFORMATION		COMPANY	
UNIT 3	POLICY NO	<i>The PMA Group</i> <i>15 9800-7628910</i>		UNIT 2	POLICY NO		
88. WITNESSES	NAME	ADDRESS			PHONE		
	NAME	ADDRESS			PHONE		

89. VIOLATIONS INDICATED

90. SECTION NUMBERS (ONLY IF CHARGED)

TC NTC

UNIT 1			
UNIT 2			

91. PROBABLE USE	92. TYPE TEST	93. RESULTS	<input type="checkbox"/> NO TEST <input type="checkbox"/> REFUSE <input type="checkbox"/> UNK	91. PROBABLE USE	92. TYPE TEST	93. RESULTS	<input type="checkbox"/> NO TEST <input type="checkbox"/> REFUSE <input type="checkbox"/> UNK	94. INVESTIGATION COMPLETE ? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
UNIT 1		0. ____ %	<input type="checkbox"/> UNK	UNIT 2		0. ____ %	<input type="checkbox"/> UNK	

I saw glass hitting the road and a car rear across the roadway in front of a scott electric truck that hit it. The truck had no hope of stopping.

UNIT #1 STATED HE WAS GOING SOUTH ON RT219 BEHIND UNIT #2 SHE MADE A QUICK STOP I APPLIED MY BRAKES AND RAN INTO THE REAR OF UNIT #2 PUSHING HER ACROSS THE CENTER LINE INTO THE PATH OF UNIT #3 GOING NORTH ON RT219.

UNIT #3 STATED GOING NORTH ON RT219 SAW UNIT #1 RUN INTO THE BACK OF UNIT #2 PUSHING HER ACROSS THE CENTER LINE INTO MY PATH THERE WASN'T ANYTHING I COULD DO TO AVOID FROM HITTING UNIT #2

VICTOR MANCINI

1382 Penn Ave
Brockway PA
265-0901

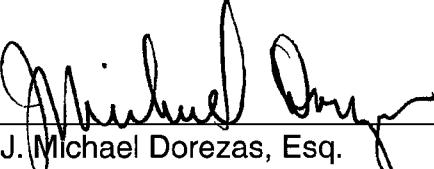
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION
FOR SUMMARY JUDGMENT was served on the 11 day of
Sept., 2002, by United States Mail, First Class, postage prepaid,
addressed to the following:

Paul E. Cherry, Esquire
CHERRY & CHERRY
23 East Park Avenue
DuBois, PA 15801
(814) 371-3288
(Attorney for Plaintiffs)

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(412) 263-3360
(Attorney for Defendants WALTER R.
ZWILLING and JOHNSON MOTORS,
INC.)

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE

BY: 

J. Michael Dorezas, Esq.
Attorney for Defendants,
JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER WEYANT,
and SOUTH MAIN TRUCKING COMPANY,
Defendants.

: CIVIL DIVISION

: No. 01 - 563 C.D.

: TYPE OF PLEADING:

: **Praecipe to Discontinue with
Prejudice Action Against Less
Than All Defendants**

: FILED ON BEHALF OF:
: Defendants JAMES ROGER
: WEYANT and SOUTH MAIN
: TRUCKING COMPANY

: COUNSEL FOR FILING PARTIES:
: J. Michael Dorezas, Esquire
: PA I.D. #17460

: EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP
: 401 Allegheny Street
: P.O. Box 415
: Hollidaysburg, PA 16648
: (814) 695-7581

: JURY TRIAL DEMANDED

FILED

DEC 04 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

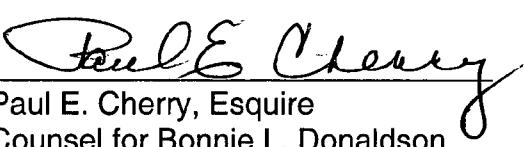
BONNIE L. DONALDSON and : CIVIL DIVISION
LARRY L. DONALDSON, SR., :
Plaintiffs :
vs. : No. 01 - 563 C.D.
: :
: :
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER WEYANT, :
and SOUTH MAIN TRUCKING COMPANY, :
Defendants. :
: :
: :

**PRAECIPE TO DISCONTINUE WITH PREJUDICE
ACTION AGAINST LESS THAN ALL DEFENDANTS**

TO THE PROTHONOTARY:

Mark the record as follows:

Action discontinued, with prejudice, against the Defendants James Roger Weyant and South Main Trucking Company only.


Paul E. Cherry, Esquire
Counsel for Bonnie L. Donaldson
and Larry L. Donaldson, Plaintiffs


J. Michael Dorezas, Esquire
Counsel for James Roger Weyant
and South Main Trucking Company


Scott E. Becker, Esquire
Counsel for Walter R. Zwilling and
Johnson Motors, Inc.

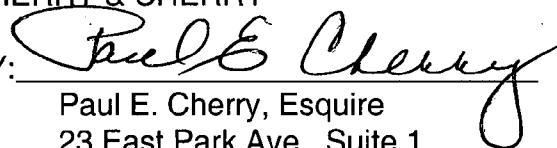
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE TO DISCONTINUE WITH PREJUDICE ACTION AGAINST LESS THAN ALL DEFENDANTS was served on the 15th day of November, 2002, by United States Mail, First Class, postage prepaid, addressed to the following:

Scott E. Becker, Esquire
BONACCI, MUCHOW & REDMAN
870 Six PPG Place
Pittsburgh, PA 15222
(Attorney for Defendants WALTER
R. ZWILLING and JOHNSON MOTORS, INC.)

J. Michael Dorezas, Esquire
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP
401 Allegheny Street
Hollidaysburg, PA 16648
(Attorney for Defendants, JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING)

CHERRY & CHERRY

BY: 

Paul E. Cherry, Esquire
23 East Park Ave., Suite 1
DuBois, PA 15801
(814) 371-3288
Attorney for Plaintiffs

FD 1 Disc. to Am
M 3:58 AM
DEC 04 2004

Do not read
Copy of Disc to CIA

William A. Shaw
Prothonotary

COPY

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

CIVIL DIVISION

**Bonnie L. Donaldson
Larry L. Donaldson Sr.**

Vs.

No. 2001-00563-CD

**Walter R. Zwilling
Johnson Motors, Inc.
James Roger Weyant
South Main Trucking Company**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 4, 2002 marked:

Discontinued with Prejudice against James Roger Weyant and South Main Trucking Company ONLY

Record costs in the sum of \$279.36 have been paid in full by Paul E. Cherry, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 4th day of December A.D. 2002.

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and
LARRY L DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON MOTORS,
INC., JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY,
Defendants

: No. 01 - 563 - C.D.
: Type of Case: CIVIL
: Type of Pleading: PRAECIPE TO PLACE
: CASE ON TRIAL LIST
: Filed on Behalf of: PLAINTIFFS
: Counsel of Record for this Party:
: PAUL E. CHERRY, ESQ.
: Supreme Court No.42945
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

DEC 18 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

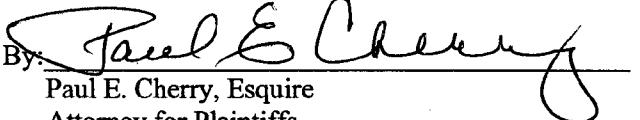
BONNIE L. DONALSON and	:
LARRY L. DONALDSON, SR.,	:
Plaintiffs	:
vs.	No. 01 - 563 - C.D.
WALTER R. ZWILLING, JOHNSON	:
MOTORS, INC., JAMES ROGER	:
WEYANT and SOUTH MAIN TRUCKING	:
COMPANY,	:
Defendants	:

PRAECIPE TO PLACE CASE ON TRIAL LIST

To the Prothonotary:

Please place the above-captioned action on the jury trial list pursuant to Rule 101.

CHERRY & CHERRY

By 
Paul E. Cherry, Esquire
Attorney for Plaintiffs

FILED

310:2942
DEC 18 2002

William A. Shaw
Prothonotary

Henry G. Cherry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and
LARRY L DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON MOTORS,
INC., JAMES ROGER WEYANT and
SOUTH MAIN TRUCKING COMPANY,
Defendants

: No. 01 - 563 - C.D.
: Type of Case: CIVIL
: Type of Pleading: CERTIFICATE OF
: READINESS FOR TRIAL
: Filed on Behalf of: PLAINTIFFS
: Counsel of Record for this Party:
: PAUL E. CHERRY, ESQ.
: Supreme Court No.42945
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

DEC 18 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

: No. 01 - 563 - C.D.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

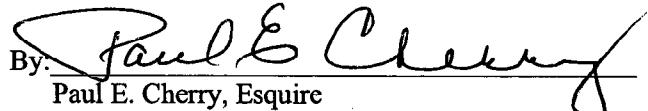
CERTIFICATE OF READINESS FOR TRIAL

To the Prothonotary:

Pursuant to Rule 101, I hereby certify that:

1. The Pleadings are closed;
2. All discovery has been completed, including discovery of expert witnesses;
3. There are no outstanding motions;
4. The amount in controversy exceeds \$25,000.00;
5. This action does not now appear on any trial or argument list;
6. Application will not be made for a continuance except for good cause arising after this action appears on the trial list;
7. Counsel who will actually try this action are:
 - a. for the Plaintiffs: Paul E. Cherry, Esquire, Phone #: (814) 371-3288;
 - b. for the Defendant: Scott E. Becker, Esquire, Phone #: (412) 263-3360; and
8. A copy of this Certificate has been served on all interested parties.

CHERRY & CHERRY

By: 
Paul E. Cherry, Esquire
Attorney for Plaintiffs

FILED
FBI 10:39 AM
DEC 18 2002
CC

William A. Shaw
Prothonotary

Henry G. Cherry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

: No. 01 - 563 - C.D.
: Type of Case: CIVIL
: Type of Pleading: NOTICE OF
: VIDEOTAPE DEPOSITION
: Filed on Behalf of: PLAINTIFFS
: Counsel of Record for this Party
: PAUL E. CHERRY, ESQ.
: Supreme Court No.42945
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

MAR 21 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and :
LARRY L. DONALDSON, SR., :
Plaintiffs :
vs. : No. 01 - 563 - C.D.
WALTER R. ZWILLING, JOHNSON :
MOTORS, INC., JAMES ROGER :
WEYANT and SOUTH MAIN TRUCKING :
COMPANY, :
Defendants :

NOTICE OF VIDEOTAPE DEPOSITION

Please take notice that Plaintiff, BONNIE L. DONALDSON, will take the oral deposition of Dr. Nicolaas Bohnen, M.D., Ph.d., University of Pittsburgh Physicians, Department of Neurology, Kauffman Medical Building, Suite 810, 3471 Fifth Avenue, Pittsburgh, PA 15213, before AKFCourt Reporting and Videotaping, 436 Boulevard of the Allies, Pittsburgh, PA 15219, an officer authorized to administer oaths, at University of Pittsburgh Physicians, Department of Neurology, Kauffman Medical Building, Suite 810, 3471 Fifth Avenue, Pittsburgh, PA 15213 on Friday, April 11, 2003, at 11:00 a.m. until completed. The deposition is to be videotaped, pursuant to Pa. R.C.P. No. 4017.1, by AKF Court Reporting and Videotaping, 436 Boulevard of the Allies, Pittsburgh, PA 15219, and will be simultaneously recorded by stenographic means.

The oral examination will continue until concluded. You are invited to attend and participate in this examination.


Paul E. Cherry
Attorney for Plaintiffs

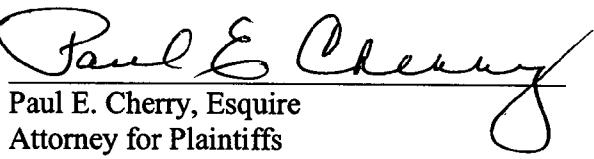
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALSON and	:
LARRY L. DONALDSON, SR.,	:
Plaintiffs	:
	:
vs.	No. 01 - 563 - C.D.
	:
WALTER R. ZWILLING, JOHNSON	:
MOTORS, INC., JAMES ROGER	:
WEYANT and SOUTH MAIN TRUCKING	:
COMPANY,	:
Defendants	:

CERTIFICATE OF SERVICE

PAUL E. CHERRY, Esquire, certifies that as counsel for the Plaintiffs in the above-captioned matter, he served a true and correct copy of the Notice of Videotape Deposition on Scott E. Becker, Esquire, counsel for the Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC., on March 20, 2003, at Bonacci, Muchow & Redman, 870 Six PPG Place, Pittsburgh, Pennsylvania 15222, by U.S. Postal Service, First-Class mail, postage prepaid.

CHERRY & CHERRY



Paul E. Cherry, Esquire
Attorney for Plaintiffs

FILED NO
10-17654
MAR 21 2003
S. S.

William A. Shaw
Secretary

Henry B. Cherry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,

Plaintiffs

VS.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

CIVIL DIVISION

No. 01-563 CD

TYPE OF PLEADING:

**NOTICE OF VIDEOTAPE
DEPOSITION OF
RICHARD B. KASDAN, M.D.
FOR USE AT TRIAL**

Filed on Behalf of Defendants:

WALTER R. ZWILLING and
JOHNSON MOTORS, INC.

Counsel of Record for This Party:

SCOTT E. BECKER, ESQUIRE
PA I.D. #19671

Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

FILED

MAR 27 2003

William A. Shaw
Prothonotary

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BONNIE L. DONALDSON and)	CIVIL DIVISION
LARRY L. DONALDSON, SR.,)	
)	No. 01-563 CD
Plaintiffs)	
)	
VS.)	
)	
WALTER R. ZWILLING, JOHNSON)	
MOTORS, INC., JAMES ROGER)	
WEYANT and SOUTH MAIN TRUCKING))	
COMPANY,)	
)	
Defendants)	

NOTICE OF VIDEOTAPE DEPOSITION
OF RICHARD B. KASDAN, M.D. FOR USE AT TRIAL

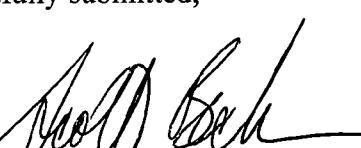
TO: Richard B. Kasdan, M.D.
Associates in Neurology of Pittsburgh
5750 Centre Avenue
Centre Commons, Suite 100
Pittsburgh, PA 15206

KINDLY TAKE NOTICE that on ***Monday, May 5, 2003, at 1:00 p.m.***, your videotape deposition will be taken before a court reporter at your medical offices listed above.

The scope and purpose of this deposition is for use at trial with regard to all the facts the deponent may have knowledge of surrounding the incident which is the subject matter of this litigation.

Respectfully submitted,

By


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

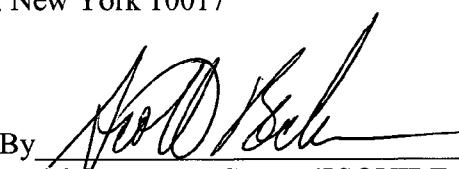
CERTIFICATE OF SERVICE

I, Scott E. Becker, Esquire, Counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Notice of Videotape Deposition of Richard B. Kasdan, M.D. by first-class mail, postage pre-paid on March 25, 2003, upon the following counsel of record and/or parties:

Paul E. Cherry, Esquire
Cherry & Cherry
23 East Park Avenue, Suite 1
DuBois, Pennsylvania 15801

Spherion Court Reporting
545 Fifth Avenue, Suite 900
New York, New York 10017

By


SCOTT E. BECKER, ESQUIRE
Counsel for Defendants

FILED

10
cc

112:55 AM
MAR 27 2003

William A. Shaw
Prothonotary

Date: 04/10/2003

Clearfield County Court of Common Pleas

User: DGREGG

Time: 02:41 PM

ROA Report

Page 1 of 1

Case: 2001-00563-CD

Current Judge: John K. Reilly Jr.

Donaldson, Larry L. Donaldson Sr. vs. Walter R. Zwilling, Johnson Motors, Inc., James Roger Weyant, South Main Trucking Company
Civil Other

Date	Judge	
04/19/2001	✓ Filing: Civil Complaint Paid by: Cherry, Paul E. (attorney for Donaldson, Bonnie L.) Receipt number: 1823836 Dated: 04/19/2001 Amount: \$80.00 (Check) Four CC Attorney Cherry	No Judge
05/09/2001	✓ Praeclipe for Appearance, on behalf of Walter R. Zwilling and Johnson Motors, Inc. filed by s/Scott E. Becker, Esq. no cc	No Judge
05/16/2001	✓ Praeclipe for Entry of Appearance, on behalf of Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY. filed by s/J. Michael Dorezas, Esq. Certificate of Service no cc	No Judge
05/18/2001	✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
05/22/2001	✓ Preliminary Objections to Plaintiffs' Complaint. filed by s/J. Michael Dorezas, Esq. 1 cc atty Dorezas	No Judge
06/11/2001	✓ Answer and New Matter, Filed by Atty Becker. No Cc.	No Judge
06/19/2001	✓ Plaintiffs' Answer to New Matter of Defendants, Walter R. Zwilling and Johnson Motors, Inc. filed by s/Paul E. Cherry, Esq. no cc	No Judge
08/15/2001	✓ ORDER, NOW, this 14th day of August, 2001, re: P.O.'s are hereby sustained to the extent that Plaintiffs prove, w/regards to paragraphs 16(a and f) shall be restricted to those theories of negligence set forth within the Complaint, etc. by the Court, s/JKR,JR.,P.J. 1 cc Paul Cherry, Atty Becker, and Atty Dorezas	John K. Reilly Jr.
08/31/2001	✓ Answer and New Matter of Defendants James Roger Weyant and South Main Trucking Co. Filed by s/J. Michael Dorezas, Esq. Verification, s/James Roger Weyant Cert of Svc no cc	John K. Reilly Jr.
09/04/2001	✓ Praeclipe For Filing Verification. Filed by s/J. Michael Dorezas, Esq. no cc	John K. Reilly Jr.
09/12/2001	✓ Plaintiffs' Answer to New Matter of Defendants, James Roger Weyant and South Main Trucking , Co. filed by s/Paul E. Cherry, Esq. no cc	John K. Reilly Jr.
03/06/2002	✓ Reply To New Matter Pursuant To Rule 2252(d), Filed on behalf of Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC. Filed by s/Scott E. Becker, Esq. Verification s/Robert G. Johnson Certificate of Service no cc	John K. Reilly Jr.
05/08/2002	✓ ORDER, NOW, this 8th day of May, 2002, re: Discovery on Motion for Summary Judgment to be filed on behalf of Defendants James Roger Weyant and South Main Trucking Co. shall be completed within 60 days from date hereof. by the Court, s/JKR,JR.,P.J. 1 cc Paul Cherry, 1 cc Scott Becko, and Dorezas, Esq.	John K. Reilly Jr.
09/18/2002	✓ Motion for Summary Judgment filed by Defendants James Roger Weyant and South Main Trucking Co. by Atty. Dorezas. No CC.	John K. Reilly Jr.
10/09/2002	Filing: Deposition of Bonnie L. Donaldson Called on behalf of defendants Zwilling and Johnson Motors. No cc.	John K. Reilly Jr.
12/05/2002	✓ Praeclipe to Discontinue with Prejudice Action Against Less Than all Defendants. One Disc. to Atty. Copy to CA	John K. Reilly Jr.
12/18/2002	✓ Praeclipe to Place Case on Trial List, filed by Atty. Cherry No Cert. Copy Copy to C/A	John K. Reilly Jr.
	✓ Certificate of Readines for Trial, filed by Atty. Cherry. No Cert. Copies. Copy to C/A	John K. Reilly Jr.
03/21/2003	✓ Notice of Videotape Deposition of DR. NICOLAAS BOHNEN, M.D, Ph.d filed by s/Paul E. Cherry, Esquire Certificate of Service no cc	John K. Reilly Jr.

Date: 11/15/2002

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 11:01 AM

ROA Report

Page 1 of 1

Case: 2001-00563-CD

Current Judge: John K. Reilly Jr.

Donaldson, Larry L. Donaldson Sr. vs. Walter R. Zwilling, Johnson Motors, Inc., James Roger Weyant, South Main Trucking Company
Civil Other

Date	Judge
04/19/2001	No Judge ✓
✓ Filing: Civil Complaint Paid by: Cherry, Paul E. (attorney for Donaldson, Bonnie L.) Receipt number: 1823836 Dated: 04/19/2001 Amount: \$80.00 (Check) Four CC Attorney Cherry	
05/09/2001	No Judge ✓
✓ Praeclipe for Appearance, on behalf of Walter R. Zwilling and Johnson Motors, Inc. filed by s/Scott E. Becker, Esq. no cc	
05/16/2001	No Judge ✓
✓ Praeclipe for Entry of Appearance, on behalf of Defendants JAMES ROGER WEYANT and SOUTH MAIN TRUCKING COMPANY. filed by s/J. Michael Dorezas, Esq. Certificate of Service no cc	
05/18/2001	No Judge ✓
✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	
05/22/2001	No Judge ✓
✓ Preliminary Objections to Plaintiffs' Complaint. filed by s/J. Michael Dorezas, Esq. 1 cc atty Dorezas	
06/11/2001	No Judge ✓
✓ Answer and New Matter, Filed by Atty Becker. No Cc.	
06/19/2001	No Judge ✓
✓ Plaintiffs' Answer to New Matter of Defendants, Walter R. Zwilling and Johnson Motors, Inc. filed by s/Paul E. Cherry, Esq. no cc	
08/15/2001	John K. Reilly Jr. ✓
✓ ORDER, NOW, this 14th day of August, 2001, re: P.O.'s are hereby sustained to the extent that Plaintiffs prove, w/regards to paragraphs 16(a and f) shall be restricted to those theories of negligence set forth within the Complaint, etc. by the Court, s/JKR,JR.,P.J. 1 cc Paul Cherry, Atty Becker, and Atty Dorezas	
08/31/2001	John K. Reilly Jr. ✓
✓ Answer and New Matter of Defendants James Roger Weyant and South Main Trucking Co. Filed by s/J. Michael Dorezas, Esq. Verification, s/James Roger Weyant Cert of Svc no cc	
09/04/2001	John K. Reilly Jr. ✓
✓ Praeclipe For Filing Verification. Filed by s/J. Michael Dorezas, Esq. no cc	
09/12/2001	John K. Reilly Jr. ✓
✓ Plaintiffs' Answer to New Matter of Defendants, James Roger Weyant and South Main Trucking , Co. filed by s/Paul E. Cherry, Esq. no cc	
03/06/2002	John K. Reilly Jr. ✓
✓ Reply To New Matter Pursuant To Rule 2252(d), Filed on behalf of Defendants, WALTER R. ZWILLING and JOHNSON MOTORS, INC. Filed by s/Scott E. Becker, Esq. Verification s/Robert G. Johnson Certificate of Service no cc	
05/08/2002	John K. Reilly Jr. ✓
✓ ORDER, NOW, this 8th day of May, 2002, re: Discovery on Motion for Summary Judgment to be filed on behalf of Defendants James Roger Weyant and South Main Trucking Co. shall be completed within 60 days from date hereof. by the Court, s/JKR,JR.,P.J. 1 cc Paul Cherry, 1 cc Scott Becko, and Dorezas, Esq.	
09/18/2002	John K. Reilly Jr. ✓
✓ Motion for Summary Judgment filed by Defendants James Roger Weyant and South Main Trucking Co. by Atty. Dorezas. No CC.	
10/09/2002	John K. Reilly Jr. ✓
✓ Filing: Deposition of Bonnie L. Donaldson Called on behalf of defendants Zwilling and Johnson Motors. No cc.	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.

Plaintiffs

vs.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

Defendants

: No. 01 - 563 - C.D.
: Type of Case: CIVIL
: Type of Pleading: PRAECIPE FOR
: DISCONTINUANCE
: Filed on Behalf of: PLAINTIFFS
: Counsel of Record for this Party:
: PAUL E. CHERRY, ESQ.
: Supreme Court No.42945
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

APR 29 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

BONNIE L. DONALDSON and
LARRY L. DONALDSON, SR.,
Plaintiffs

vs.

No. 01 - 563 - C.D.

WALTER R. ZWILLING, JOHNSON
MOTORS, INC., JAMES ROGER
WEYANT and SOUTH MAIN TRUCKING
COMPANY,

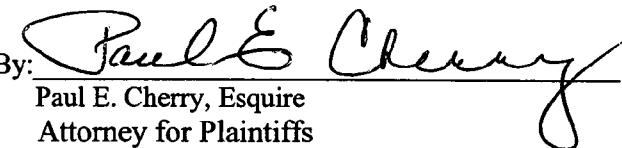
Defendants

PRAECIPE FOR DISCONTINUANCE

To the Prothonotary:

Please mark the above-captioned case ended, settled, and forever discontinued and/or dismissed, with prejudice.

CHERRY & CHERRY

By: 
Paul E. Cherry, Esquire
Attorney for Plaintiffs

100 & 3 Cent. of Disc.
to Aly P. Cherry

01/10/38

APR 2 5 1938

Copy of Certificate to CJA

William A. Shaw
Philanthropy

Henry G. Cherry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

**Bonnie L. Donaldson
Larry L. Donaldson Sr.**

Vs.

No. 2001-00563-CD

**Walter R. Zwilling
Johnson Motors, Inc.
James Roger Weyant
South Main Trucking Company**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on April 29, 2003, marked:

Ended, Settled, and forever Discontinued and/or Dismissed with Prejudice

Record costs in the sum of \$80.00 have been paid in full by Paul E. Cherry, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 29th day of April A.D. 2003.

William A. Shaw, Prothonotary