

01-867-CD  
LESTER E. CAINE et al -vs- EMERY E. WILCOX et al

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

**VS.**

EMERY E. WILCOX and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

No: 01-867-CD

### PRAECIPE FOR WRIT OF SUMMONS

TO: WILLIAM SHAW, PROTHONOTARY

Kindly issue a Writ of Summons against the Defendants, Emery E. Wilcox and Barbara J. Wilcox on behalf of the Plaintiffs, Lester E. Caine and Carol B. Caine, in the above-captioned action.

Respectfully submitted,

LEGER BALL & SCOTT, P.C.

BY:

Andrew J. Leger, Jr., Esquire  
Pa. I. D. #43702  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700  
Counsel for Plaintiff

Timothy E. Durant, Esquire  
201 North Second Street  
Clearfield, PA 16830  
(814) 765-1711

**FILED**

WILLIAM A. SHAW  
PROTHONOTARY

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

**COPY**

**SUMMONS**

**Lester E. Caine  
Carol B. Caine**

**Vs.**

**NO.: 2001-00867-CD**

**Emery E. Wilcox  
Barbara J. Wilcox**

**TO: EMERY E. WILCOX  
BARBARA J. WILCOX**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 06/05/2001

---

William A. Shaw  
Prothonotary

Issuing Attorney:

Andrew J. Leger Jr.

Pittsburgh, PA 15219

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11113

CAINE, LESTER E. & CAROL B.

01-867-CD

VS.

WILCOX, EMERY E. and BARBARA J.

SUMMONS

SHERIFF RETURNS

NOW JUNE 18, 2001 AT 10:40 AM DST SERVED THE WITHIN SUMMONS ON  
BARBARA J. WILCOX, DEFENDANT AT RESIDENCE, 12 WAYNE ROAD, DUBOIS,  
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO BARBARA WILCOX  
A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN  
TO HER THE CONTENTS THEREOF.  
SERVED BY: SNYDER

NOW JUNE 18, 2001 AT 10:40 AM DST SERVED THE WITHIN SUMMONS ON  
EMERY E. WILCOX, DEFENDANT AT RESIDENCE, 12 WAYNE ROAD, DUBOIS,  
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO BARB WILCOX, WIFE,  
A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN  
TO HER THE CONTENTS THEREOF.  
SERVED BY: SNYDER

Return Costs

Cost	Description
34.22	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY.

FILED

JUN 22 2001  
01:35 PM  
William A. Shaw  
Prothonotary

Sworn to Before Me This

22nd Day of June 2001  
*William A. Shaw*

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

So Answers,

*Chester A. Hawkins*  
*by Marilyn Lamp*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

vs.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

NO. 2001-00867-CD

ISSUE NO.

**COMPLAINT**

CODE:

FILED ON BEHALF OF:

Lester E. Caine and Carol B. Caine  
Plaintiffs

COUNSEL OF RECORD:

ANDREW J. LEGER, JR., ESQUIRE  
Pa. I.D. No. #43702

LEGER BALL & SCOTTI, P.C.

Firm I.D. No. 142  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700

TIMOTHY E. DURANT  
201 North Second Street  
Clearfield, PA 16830

**A JURY TRIAL DEMANDED**

**FILED**

JUN 28 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX and,  
BARBARA J. WILCOX,

Defendants.

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CIVIL DIVISION

NO. No. 2001-00867-CD

NOTICE TO DEFEND

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 by filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiffs. 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 OF CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

**PENNSYLVANIA LAWYER REFERRAL SERVICE**

Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, PA 17108  
1-800-692-7375

Date: June 26, 2001

LEGER BALL & SCOTTI, P.C.

By Andrew J. Leger, Jr.  
Andrew J. Leger, Jr., Esquire  
Attorneys for Plaintiff

1. Plaintiffs, Lester E. Caine and Carol B. Caine, are husband and wife and reside at R.R. 1, Box 618, Brockway, Pennsylvania 15824.
2. Defendants, Emery E. Wilcox and Barbara J. Wilcox, are husband and wife and reside at 12 Wayne Road, DuBois, Pennsylvania 15801.

3. On or about June 19, 1999, at or about 11:35 a.m., Plaintiff Lester E. Caine was operating a 1994 Mercury Sable, which was traveling south on State Route 219 at Shaffer Avenue in the municipality of DuBois, Clearfield County, Pennsylvania, with Plaintiff Carol B. Caine as a passenger.

4. At the same, date, time and place, Defendant Barbara J. Wilcox was operating a 1994 Oldsmobile Cutlass Ciera, owned by both herself and Defendant Emery E. Wilcox, and traveling on State Route 219, in the same direction and behind the Plaintiffs.

5. At the above stated date, time, and place, the Plaintiffs were stopped, or in the process of stopping in a legal, safe, and cautious manner, due to another vehicle making a left hand turn in front of them, when they were struck from behind by the vehicle operated by the Defendant Barbara J Wilcox who was not watching the condition of traffic in front of her.

6. As a sole, direct and proximate result of the negligent, careless, and reckless conduct of the Defendant, Plaintiff Lester E. Caine was caused to sustain the following injuries, all of which are or may be of a permanent nature:

- (a) acute cervical muscle spasms;
- (b) injury to the cervical spine;
- (c) bulging and injury of the C5-6 and C6-7 discs;
- (d) cervical strain and lumbar strain;
- (e) chronic lower back pain;
- (f) difficulty sleeping;
- (g) injuries to the neck and shoulders;
- (h) headaches, nausea, muscle spasms, blurred vision;
- (i) shock to the nerves and nervous system; and



- (j) other serious and severe injuries.

7. That solely as a result of the aforesaid injuries, Plaintiff Lester E. Caine sustained the following damages:

- (a) he has suffered and will suffer great pain, suffering, inconvenience, mental anguish and embarrassment;
- (b) he has been and will be required to expend large sums of money for medical attention, physical therapy, hospitalization, medical supplies, medicines, and attendant services;
- (c) he has been and will be deprived of his earnings;
- (d) his earning capacity has been reduced and permanently impaired;
- (e) his general health, strength, and vitality have been impaired; and
- (f) he has been unable to enjoy the ordinary pleasures of life.

8. As a sole, direct and proximate result of the negligent, careless, and reckless conduct of the Defendant, Plaintiff Carol B. Caine was caused to sustain the following injuries, all of which are or may be of a permanent nature:

- (a) whiplash injuries;
- (b) upper back strain;
- (c) numbness in right arm;
- (d) cervical strain and thoracic strain;
- (e) severe posterior scapular and shoulder pain;
- (f) difficulty sleeping;
- (g) injuries to the neck and shoulders;
- (h) headaches;

- (i) shock to the nerves and nervous system; and
- (j) other serious and severe injuries.

9. That solely as a result of the aforesaid injuries, Plaintiff Carol B. Caine sustained the following damages:

- (a) she has suffered and will suffer great pain, suffering, inconvenience, mental anguish and embarrassment;
- (b) she has been and will be required to expend large sums of money for medical attention, physical therapy, hospitalization, medical supplies, medicines, and attendant services;
- (c) she has been and will be deprived of her earnings;
- (d) her earning capacity has been reduced and permanently impaired;
- (e) her general health, strength, and vitality have been impaired; and
- (f) she has been unable to enjoy the ordinary pleasures of life.

### **COUNT I**

**Lester E. Caine, Plaintiff vs.**  
**Barbara J. Wilcox, Defendant**

#### **(Negligence)**

10. Plaintiff Lester E. Caine hereby incorporates by reference each and every allegation contained in paragraphs 1 through 9, inclusive, as if the same had been fully set forth at length herein.

11. At all times material and relevant hereto, Defendant owed a duty to Plaintiff and to all others similarly situated to exercise due care and caution in the operation of the said vehicle with due regard to the rights and safety of others.

12. The above-described accident and resulting injuries and damages were caused solely by and were the direct and proximate result of the Defendant, Barbara Jean Wilcox breaching her duty of due care to the Plaintiff and that Defendant was negligent in general and with respect to the following particulars:

- (a) in negligently striking the Plaintiff's vehicle from behind;
- (b) in operating Defendant's vehicle at a dangerous and excessive rate of speed;
- (c) in failing to operate Defendant's vehicle in a safe manner under the then existing conditions;
- (d) in failing to warn the Plaintiff by sounding a horn or otherwise;
- (e) in failing to operate the brakes in such a manner that the Defendant could stop the vehicle before striking Plaintiff's vehicle;
- (f) in failing to have Defendant's vehicle under control;
- (g) in failing to steer the vehicle in such a manner as to avoid colliding from behind with a vehicle properly stopped due to traffic;
- (h) in being inattentive and in failing to maintain a sharp lookout of the road and the surrounding traffic conditions;
- (i) in failing to have due regard for the rights and safety of others;
- (j) in otherwise being negligent under the circumstances as more fully set forth hereinbefore.

WHEREFORE, Plaintiff Lester E. Caine claims damages from the Defendant Barbara J Wilcox in an amount in excess of the statutory minimum for compulsory arbitration.

**COUNT II**

**Lester E. Caine, Plaintiff vs.**  
**Emery E. Wilcox, Defendant**

**Negligent Entrustment**

13. Plaintiff Lester E. Caine hereby incorporates by reference each and every allegation contained in paragraphs 1 through 12, inclusive, as if the same had been fully set forth at length herein.

14. At all times mentioned, Defendant Barbara J. Wilcox was operating the 1994 Oldsmobile Cutlass Ciera with the express permission of the other owner, Defendant Emery E. Wilcox.

15. At the time of the incidents underlying this complaint, Defendant Barbara J. Wilcox was an incompetent and reckless driver.

16. Defendant, Emery E. Wilcox, acted negligently in entrusting the vehicle to Defendant Barbara J. Wilcox in that Defendant Emery E. Wilcox knew or should have known of his wife's, Defendant Barbara J. Wilcox, inability to properly operate a motor vehicle.

17. As a direct and proximate result of Defendant Emery E. Wilcox's negligence in entrusting the automobile to Defendant Barbara J. Wilcox, Plaintiff Lester E. Caine suffered the damages and injuries described above.

WHEREFORE, Plaintiff Lester E. Caine claims damages from the Defendant Emery E. Wilcox in an amount in excess of the statutory minimum for compulsory arbitration.

**COUNT III**

**Carol B. Caine, Plaintiff vs.**  
**Emery E. Wilcox and Barbara J. Wilcox, Defendants**

**(LOSS OF CONSORTIUM)**

18. Plaintiff, Carol B. Caine, hereby incorporates by reference each and every allegation contained in paragraphs 1 through 17, inclusive, as if the same had been fully set forth at length herein.

19. Because of the injuries inflicted upon her husband, Plaintiff Carol B. Caine has been deprived of his aid, comfort, society and his services in the management of her domestic affairs.

20. Plaintiff Carol B. Caine has suffered and will continue to suffer the loss of services of her husband, and her comfort and happiness in his society and companionship have been impaired.

21. Plaintiff Carol B. Caine is claiming Loss of Consortium due to her husband's injuries which he received as a result of the aforementioned accident, including loss of her husband's services, companionship, and consortium.

WHEREFORE, Plaintiff Carol B. Caine claims damages from the defendants, Emery E. Wilcox and Barbara J. Wilcox, in an amount in excess of the statutory minimum for compulsory arbitration.

## COUNT IV

### **Carol B. Caine, Plaintiff vs.** **Barbara J. Wilcox, Defendant**

#### **(Negligence)**

22. Plaintiff Carol B. Caine hereby incorporates by reference each and every allegation contained in paragraphs 1 through 21, inclusive, as if the same had been fully set forth at length herein.

23. At all times material and relevant hereto, Defendant owed a duty to Plaintiff and to all others similarly situated to exercise due care and caution in the operation of the said vehicle with due regard to the rights and safety of others.

24. The above-described accident and resulting injuries and damages were caused solely by and were the direct and proximate result of the Defendant Barbara Jean Wilcox breaching her duty of due care to the Plaintiff and that Defendant was negligent in general and with respect to the following particulars:

- (a) in negligently striking the Plaintiff's vehicle from behind;
- (b) in operating Defendant's vehicle at a dangerous and excessive rate of speed;
- (c) in failing to operate Defendant's vehicle in a safe manner under the then existing conditions;
- (d) in failing to warn the Plaintiff by sounding a horn or otherwise;
- (e) in failing to operate the brakes in such a manner that the Defendant could stop the vehicle before striking Plaintiff's vehicle;
- (f) in failing to have Defendant's vehicle under control;

- (g) in failing to steer the vehicle in such a manner as to avoid colliding from behind with a vehicle properly stopped due to traffic;
- (h) in being inattentive and in failing to maintain a sharp lookout of the road and the surrounding traffic conditions;
- (i) in failing to have due regard for the rights and safety of others;
- (j) in otherwise being negligent under the circumstances as more fully set forth hereinbefore.

WHEREFORE, Plaintiff Carol B. Caine claims damages from the Defendant Barbara J Wilcox in an amount in excess of the statutory minimum for compulsory arbitration.

#### **COUNT V**

#### **Carol B Caine, Plaintiff vs.** **Emery E. Wilcox, Defendant**

25. Plaintiff Carol B. Caine hereby incorporates by reference each and every allegation contained in paragraphs 1 through 24, inclusive, as if the same had been fully set forth at length herein.

26. At all times mentioned, Defendant Barbara J. Wilcox was operating the 1994 Oldsmobile Cutlass Ciera with the express permission of the other owner, Defendant Emery E. Wilcox.

27. At the time of the incidents underlying this complaint, Defendant Barbara J. Wilcox was an incompetent and reckless driver.

28. Defendant, Emery E. Wilcox, acted negligently in entrusting his vehicle to Defendant Barbara J. Wilcox in that Defendant Emery E. Wilcox knew or should have known of his wife's, Defendant Barbara J. Wilcox, inability to operate a motor vehicle.

29. As a direct and proximate result of Defendant Emery E. Wilcox's negligence in entrusting the automobile to Defendant Barbara J. Wilcox, Plaintiff Lester E. Caine suffered the damages and injuries described above.

WHEREFORE, Plaintiff Carol B. Caine claims damages from the Defendant Emery E. Wilcox in an amount in excess of the statutory minimum for compulsory arbitration.

#### **COUNT VI**

#### **(LOSS OF CONSORTIUM)**

**Lester E. Caine, Plaintiff vs.**  
**Emery E. Wilcox and Barbara J. Wilcox, Defendants**

30. Plaintiff, Lester E. Caine, hereby incorporates by reference each and every allegation contained in paragraphs 1 through 29, inclusive, as if the same had been fully set forth at length herein.

31. Because of the injuries inflicted upon his wife, Plaintiff Lester E. Caine has been deprived of her society, aid, comfort and her services in the management of his domestic affairs.

32. Plaintiff Lester E. Caine has suffered and will continue to suffer the loss of services of his wife, and his comfort and happiness in her society and companionship have been impaired.

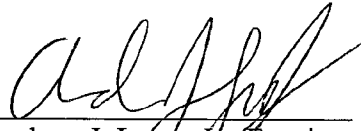
33. Plaintiff Lester E. Caine is claiming Loss of Consortium due to his wife's injuries which she received as a result of the aforementioned accident, including loss of his wife's services, companionship and consortium.



WHEREFORE, Plaintiff Lester E. Caine claims damages from the defendants, Emery E. Wilcox and Barbara J. Wilcox, in an amount in excess of the statutory minimum for compulsory arbitration.

**A JURY TRIAL DEMANDED**

LEGER BALL & SCOTTI, P.C.

BY:   
\_\_\_\_\_  
Andrew J. Leger, Jr., Esquire  
Attorney for the Plaintiffs

**VERIFICATION**

I, Lester E. Caine, verify that the statements of fact made in the foregoing COMPLAINT are true and correct to the best of my knowledge, information, and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa C.S.A. § 4904 relating to unsworn falsification to authorities.

Date 13 June 2001

Lester E. Caine  
Lester E. Caine

**VERIFICATION**

I, Carol B. Caine, verify that the statements of fact made in the foregoing COMPLAINT are true and correct to the best of my knowledge, information, and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa C.S.A. § 4904 relating to unsworn falsification to authorities.

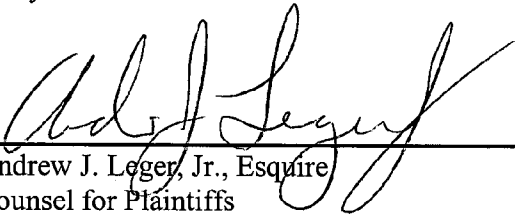
Date 13 June 2001

Carol B. Caine  
Carol B. Caine

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Complaint was served upon the following counsel of record by first-class mail, postage prepaid on this 26<sup>th</sup> day of June, 2001:

Emery E. Wilcox  
Barbara J. Wilcox  
12 Wayne Road  
DuBois, Pennsylvania 15801

  
\_\_\_\_\_  
Andrew J. Leger, Jr., Esquire  
Counsel for Plaintiffs

FILED

JUN 28 2001

07:18/55  
William A. Shaw  
Prothonotary

att. Legen  
C. K. 28

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

No: 2001-00867-CD

***PRAECIPE FOR ENTRY  
OF PPEARANCE***

Filed on Behalf of Defendants:

Emery E. and Barbara J. Wilcox

Counsel of Record for this Party:

C. PETER HITSON, ESQUIRE  
PA I.D. #62283

SHEEHY, MASON & HITSON  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222  
(412) 288-6200

**JURY TRIAL DEMANDED**

**FILED**

JUL 09 2001

William A. Shaw  
Prothonotary

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

JUL 09 2001

Attest.

*William A. Shaw*  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

No: 2001-00867-CD

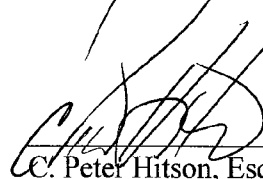
***PRAECIPE FOR ENTRY OF APPEARANCE***

TO THE PROTHONOTARY:

Please enter my appearance for defendants, Emery E. Wilcox and Barbara J. Wilcox, in the  
above-captioned case.

**JURY TRIAL DEMANDED**

SHEEHY, MASON & HITSON  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222  
(412) 288-6200



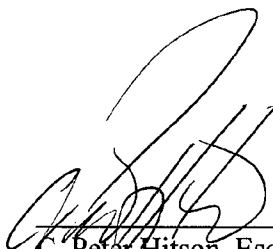
C. Peter Hitson, Esquire  
Attorney for Defendants

***CERTIFICATE OF SERVICE***

I hereby certify that on July 5, 2001, a true and correct copy of the within *Praecipe for Entry of Appearance* was served by United States mail, postage prepaid, to and upon the following:

Andrew J. Leger, Jr., Esquire  
LEGER, BALL & SCOTTI, P.C.  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219

Timothy E. Durant, Esquire  
201 North Second Street  
Clearfield, PA 16830

A handwritten signature in black ink, appearing to read 'C. Peter Hitson', is written over a horizontal line.

C. Peter Hitson, Esquire



**FILED**

*Adm*  
JUL 09 2001  
*10:30 AM*  
William A. Shaw  
Prothonotary  
*no c/c*

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

JUL 09 2001

Attest.

*William A. Shaw*  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

vs.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

NO. 2001-00867

ISSUE NO.

**NOTICE OF SERVICE OF  
INTERROGATORIES  
DIRECTED TO DEFENDANT  
BARBARA J. WILCOX**

CODE:

FILED ON BEHALF OF:  
Lester E. Caine and Carol B. Caine  
Plaintiffs

COUNSEL OF RECORD:

ANDREW J. LEGER, JR., ESQUIRE  
Pa. I.D. No. #43702

LEGER BALL & SCOTTI, P.C.  
Firm I.D. No. 142  
03100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700

TIMOTHY E. DURANT  
201 North Second Street  
Clearfield, PA 16830

**A JURY TRIAL DEMANDED**

**FILED**

JUL 19 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

vi.

EMERY E. WILCOX and,  
BARBARA J. WILCOX,

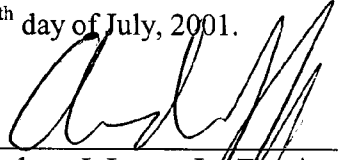
Defendants.

) CIVIL DIVISION  
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) NO. 2001-00867  
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**NOTICE OF SERVICE OF INTERROGATORIES**

TO: WILLIAM SHAW, PROTHONOTARY

Kindly take notice that Interrogatories Directed to Defendant Barbara J. Wilcox were served on C. Peter Hitson, Esquire, Sheehy, Mason & Hitson, 20 Stanwix Street, Pittsburgh, Pennsylvania via first-class mail on this 17<sup>th</sup> day of July, 2001.

  
\_\_\_\_\_  
Andrew J. Leger, Jr., Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

vs.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

NO. 2001-00867

ISSUE NO.

**NOTICE OF SERVICE OF  
INTERROGATORIES  
DIRECTED TO DEFENDANT  
EMERY E. WILCOX**

CODE:

FILED ON BEHALF OF:  
Lester E. Caine and Carol B. Caine  
Plaintiffs

COUNSEL OF RECORD:

ANDREW J. LEGER, JR., ESQUIRE  
Pa. I.D. No. #43702

LEGER BALL & SCOTTI, P.C.  
Firm I.D. No. 142  
03100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700

TIMOTHY E. DURANT  
201 North Second Street  
Clearfield, PA 16830

**A JURY TRIAL DEMANDED**

**FILED**

JUL 19 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX and,  
BARBARA J. WILCOX,

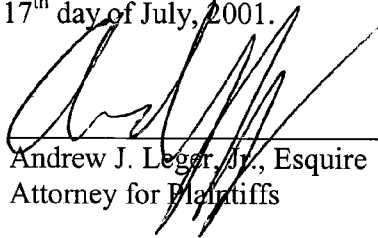
Defendants.

) CIVIL DIVISION  
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) NO. 2001-00867  
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**NOTICE OF SERVICE OF INTERROGATORIES**

TO: WILLIAM SHAW, PROTHONOTARY

Kindly take notice that Interrogatories Directed to Defendant Emery E. Wilcox were served on C. Peter Hitson, Esquire, Sheehy, Mason & Hitson, 20 Stanwix Street, Pittsburgh, Pennsylvania via first-class mail on this 17<sup>th</sup> day of July, 2001.

  
\_\_\_\_\_  
Andrew J. Leger, Jr., Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

No: 2001-00867-CD

***DEFENDANTS' ANSWER  
AND NEW MATTER***

Filed on Behalf of Defendants:

Emery E. and Barbara J. Wilcox

Counsel of Record for this Party:

C. PETER HITSON, ESQUIRE  
PA I.D. #62283

SHEEHY, MASON & HITSON  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222  
(412) 288-6200

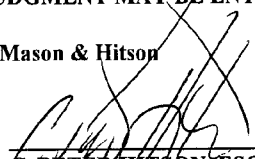
TO: Plaintiffs

**JURY TRIAL DEMANDED**

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN  
RESPONSE TO THE ENCLOSED ANSWER AND NEW MATTER  
WITHIN TWENTY (20) DAYS FROM SERVICE HEREOF  
OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

Sheehy, Mason & Hitson

BY:

  
C. PETER HITSON, ESQUIRE  
ATTORNEY FOR DEFENDANTS

**FILED**

JUL 23 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

No: 2001-00867-CD

***DEFENDANTS' ANSWER AND NEW MATTER***

AND NOW come defendants, Emery E. Wilcox and Barbara J. Wilcox, by their attorney, C. Peter Hitson, Esquire, and files the following Answer and New Matter in response to plaintiffs' Complaint:

***ANSWER***

1. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 1 of plaintiffs' Complaint.

2. Paragraph 2 of plaintiffs' Complaint is admitted.

3. Paragraph 3 of plaintiffs' Complaint is admitted.

4. Paragraph 4 of plaintiffs' Complaint is admitted.

5. The averments of paragraphs 5 of plaintiffs' Complaint are admitted in part and denied in part. It is admitted that a vehicular collision occurred involving these parties at the general time and location described in the Complaint. The remaining averments of this paragraph are legal

conclusions to which no response is required, and to the extent a response is required, the averments are denied pursuant to Pa.R.C.P. 1029(e).

6. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 6 of plaintiffs' Complaint regarding the nature and severity of husband-plaintiff's alleged injuries. To the extent husband-plaintiff avers that his alleged injuries were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

7. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 7 of plaintiffs' Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

8. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 8 of plaintiffs' Complaint regarding the nature and severity of wife-plaintiff's alleged injuries. To the extent wife-plaintiff avers that her alleged injuries were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to

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which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

9. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 9 of plaintiffs' Complaint regarding the nature and extent of wife-plaintiff's alleged damages. To the extent wife-plaintiff avers that her alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

### ***COUNT I***

***Lester E. Caine, Plaintiff vs. Barbara J. Wilcox, Defendant***

#### ***(Negligence)***

10. The averments in paragraphs 1 through 9 of defendants' Answer are incorporated herein by reference as though the same were set forth in full and in their entirety.

11. Paragraph 11 of plaintiffs' Complaint contains conclusions of law to which no response is necessary.

12. Paragraph 12, including subparagraphs (a) through (j), of plaintiffs' Complaint contains conclusions of law to which no response is necessary. To the extent that a response is required, said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of

defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

***COUNT II***

***Lester E. Caine, Plaintiff vs. Emery E. Wilcox, Defendant***

***Negligent Entrustment***

13. The averments in paragraphs 1 through 12 of defendants' Answer are incorporated herein by reference as though the same were set forth in full and in their entirety.

14. Paragraph 14 of plaintiffs' Complaint contains legal conclusions to which no response is required. To the extent a further response is required, the defendant driver avers that she was an owner of the car, and did not seek express permission or approval to operate the car.

15. Paragraph 15 of plaintiffs' Complaint is denied pursuant to Pa.R.C.P. No. 1029(e).

16. Paragraph 16 of plaintiffs' Complaint contains conclusions of law to which no response is necessary. To the extent that a response is required, said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

17. Paragraph 17 of plaintiffs' Complaint contains conclusions of law to which no response is necessary. To the extent that a response is required, said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

### ***COUNT III***

***Carol B. Caine, Plaintiff vs. Emery E. Wilcox and Barbara J. Wilcox, Defendants***

#### ***(Loss of Consortium)***

18. The averments in paragraphs 1 through 17 of defendants' Answer are incorporated herein by reference as though the same were set forth in full and in their entirety.

19. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 19 of plaintiffs' Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

20. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 20 of plaintiffs' Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

21. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 21 of plaintiffs' Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent

husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

***COUNT IV***

***Carol B. Caine, Plaintiff vs. Barbara J. Wilcox, Defendant***

***(Negligence)***

22. The averments in paragraphs 1 through 21 of defendants' Answer are incorporated herein by reference as though the same were set forth in full and in their entirety.

23. Paragraph 23 of plaintiffs' Complaint contains conclusions of law to which no response is necessary.

24. Paragraph 24, including subparagraphs (a) through (j), of plaintiffs' Complaint contain conclusions of law to which no response is necessary. To the extent that a response is required, said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

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**COUNT V**

***Carol B. Caine, Plaintiff vs. Emery E. Wilcox, Defendant***

25. The averments in paragraphs 1 through 24 of defendants' Answer are incorporated herein by reference as though the same were set forth in full and in their entirety.

26. Paragraph 26 of plaintiffs' Complaint contains legal conclusions to which no response is required. To the extent a further response is required, the defendant driver avers that she was an owner of the car, and did not seek express permission or approval to operate the car.

27. Paragraph 27 of plaintiffs' Complaint is denied pursuant to Pa.R.C.P. No. 1029(e).

28. Paragraph 28 of plaintiffs' Complaint contains conclusions of law to which no response is necessary. To the extent that a response is required, said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

29. Paragraph 29 of plaintiffs' Complaint contains conclusions of law to which no response is necessary. To the extent that a response is required, said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

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## ***COUNT VI***

***Lester E. Caine, Plaintiff vs. Emery E. Wilcox and Barbara J. Wilcox, Defendants***

### ***(Loss of Consortium)***

30. The averments in paragraphs 1 through 29 of defendants' Answer are incorporated herein by reference as though the same were set forth in full and in their entirety.

31. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 31 of plaintiffs' Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

32. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 32 of plaintiffs' Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

33. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 33 of plaintiffs'

Complaint regarding the nature and extent of husband-plaintiff's alleged damages. To the extent husband-plaintiff avers that his alleged damages were the result of any negligence, carelessness, recklessness or other improper conduct on the part of these defendants, said averments are conclusions of law to which no response is necessary. To the extent that a response is required said averments are denied pursuant to Pa.R.C.P. No. 1029(e).

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

***NEW MATTER***

For a further and more specific Answer, defendants, Emery E. Wilcox and Barbara J. Wilcox, set forth the following New Matter pursuant to Rule 1030 of the Pennsylvania Rules of Civil Procedure:

34. Defendants plead as a total and/or partial defense to this action the doctrines of contributory negligence, comparative negligence and assumption of the risk by plaintiffs.

35. The conduct of these defendants was not the legal and proximate cause of the occurrence giving rise to the instant lawsuit and plaintiffs are therefore barred from recovery.

36. On information and belief, the conduct of these defendants, even if proven negligent, which negligence is denied, was the remote cause of the occurrence giving rise to the instant lawsuit and plaintiffs are therefore barred from recovery.

37. On information and belief, the conduct of others whose identity may become known through discovery and litigation of this lawsuit and not these defendants was the sole and proximate

and/or contributory cause of the occurrence giving rise to the instant lawsuit and plaintiffs are therefore barred from recovery.

38. On information and belief, the conduct of others whose identity may become known through discovery and litigation of this lawsuit, and not these defendants was the sole and proximate intervening and/or superseding cause of the occurrence giving rise to the instant lawsuit and plaintiffs are therefore barred from recovery.

39. On information and belief, the alleged injuries and damages of plaintiffs were not proximately caused by these defendants and plaintiffs are therefore barred from recovery.

40. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

41. On information and belief, the occurrence set forth in the Complaint was unavoidable under the facts and circumstances then and there existing and plaintiffs are therefore barred from recovery.

42. On information and belief, the occurrence set forth in the Complaint was the result of a sudden emergency and therefore plaintiffs are barred from recovery.

43. On information and belief, the alleged injuries and damages of plaintiffs are unforeseeable consequential damages and plaintiffs are therefore barred from recovery.

44. On information and belief, plaintiffs have failed to mitigate any alleged damages and plaintiffs are therefore barred from recovery.

45. On information and belief, plaintiffs' alleged medical bills and/or wage loss have been paid in whole or in part under the Pennsylvania Motor Vehicle Financial Responsibility Law, thereby limiting plaintiffs' recovery, if any, in this action to pain and suffering or otherwise reducing plaintiffs' claim by the benefits paid under said law.

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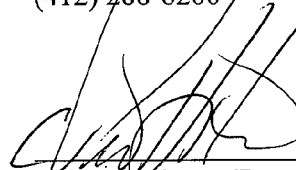


46. On information and belief, some or all of plaintiffs' claims are barred by the applicable provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended. Specifically, should it be determined at the time of trial that plaintiffs have not suffered "serious injury" as that term is defined in 75 Pa.C.S. §1702, plaintiffs may be barred from recovering non-economic damages pursuant to 75 Pa.C.S. §1705(d).

47. On information and belief, some or all of plaintiffs' claims are barred by the applicable provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended, specifically 75 Pa.C.S. §1722.

WHEREFORE, defendants, Emery E. Wilcox and Barbara J. Wilcox, respectfully request that plaintiffs' Complaint be dismissed with prejudice, that judgment be entered in favor of defendants and against plaintiffs, that defendants be awarded attorney's fees, costs of suit and such other and further relief as the Court deems just and proper. **A JURY TRIAL IS DEMANDED.**

SHEEHY, MASON & HITSON  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222  
(412) 288-6200

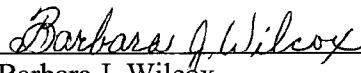


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C. Peter Hitson, Esquire  
Attorney for Defendants

***VERIFICATION***

I, Barbara J. Wilcox, and subject to the penalties contained in 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, state that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information, and belief.

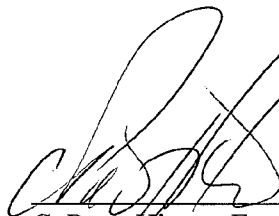
  
\_\_\_\_\_  
Barbara J. Wilcox

***CERTIFICATE OF SERVICE***

I hereby certify that on July 12, 2001, a true and correct copy of the within ***Defendants'***  
***Answer and New Matter*** was served by United States mail, postage prepaid, to and upon the  
following:

Andrew J. Leger, Jr., Esquire  
LEGER, BALL & SCOTTI., P.C.  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219

Timothy E. Durant, Esquire  
201 North Second Street  
Clearfield, PA 16830

A handwritten signature in black ink, appearing to read 'C. Peter Hitson', is written over a horizontal line.

C. Peter Hitson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

vs.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

NO. 2001-00867-CD

ISSUE NO.

**PLAINTIFF'S ANSWER TO  
REQUESTS FOR ADMISSIONS**

CODE:

FILED ON BEHALF OF:  
Lester E. Caine and Carol B. Caine  
Plaintiffs

COUNSEL OF RECORD:

ANDREW J. LEGER, JR, ESQUIRE.  
Pa I.D. No. #43702

LEGER BALL & SCOTTI, P.C.  
Firm I.D. No. 142  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700

TIMOTHY E. DURANT  
201 North Second Street  
Clearfield, PA 16830

**A JURY TRIAL DEMANDED**

**FILED**

SEP 14 2001

CLERK  
notary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX and,  
BARBARA J. WILCOX,

Defendants.

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CIVIL DIVISION

NO. No. 2001-00867-CD

**ANSWER TO REQUESTS FOR ADMISSION**

AND NOW, comes the Plaintiffs, Lester E. Caine, and Carol B. Caine, by and through their attorneys, Andrew J. Leger, Jr., Esquire, and Leger Ball and Scotti, P.C., and files Plaintiff's Answer to Requests for Admission, and in support thereof avers the following:

1. In response to the statement contained in Paragraph 1 of the Defendant's Request for Admissions, Plaintiffs can neither admit or deny that the Defendant's vehicle was equipped with airbags when it collided with the Plaintiffs' vehicle. The Plaintiffs have no knowledge of the safety features present in the Defendant's vehicle before, during, or after the occurrence of the incident which is the subject matter of this Requests for Admissions, therefore, the information known or readily available to the Plaintiffs is insufficient to permit them to admit or deny the statement made in Paragraph 1.

2. In response to the statement contained in Paragraph 2 of the Defendant's Request for Admissions, Plaintiffs can neither admit or deny that the airbags in the Defendant's vehicle deployed when it collided with the Plaintiffs' vehicle. The Plaintiffs have no knowledge of the

condition of the safety features in the Defendant's vehicle before, during, or after the occurrence of the incident which is the subject matter of this Requests for Admissions, therefore, the information known or readily available to the Plaintiffs is insufficient to permit them to admit or deny the statement made in Paragraph 1.

Respectfully Submitted,

LEGER BALL & SCOTTI, P/C.

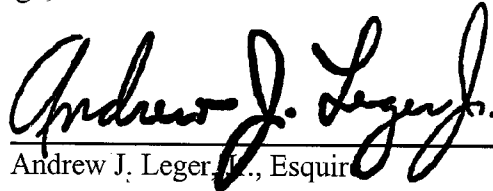
BY: 

Andrew J. Leger, Jr., Esquire  
Pa. I.D. # 43702  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700  
Counsel for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Plaintiffs' Answer to Requests for Admissions was served upon the following counsel of record by first-class mail, postage prepaid on this 12<sup>th</sup> day of September, 2001:

C. Peter Hitson, Esquire  
Sheehy, Mason & Hitson  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222

  
\_\_\_\_\_  
Andrew J. Leger, Esquire

Counsel for Plaintiffs

FILED

SEP-14 2001

William A. Shaw  
Prothonotary

*[Handwritten signature]*  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

vs.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

NO. 2001-00867-CD

ISSUE NO.

**REPLY TO NEW MATTER**

CODE:

FILED ON BEHALF OF:

Lester E. Caine and Carol B. Caine  
Plaintiffs

COUNSEL OF RECORD:

ANDREW J. LEGER, JR, ESQUIRE.  
Pa I.D. No. #43702

LEGER BALL & SCOTTI, P.C.

Firm I.D. No. 142  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700

TIMOTHY E. DURANT  
201 North Second Street  
Clearfield, PA 16830

**A JURY TRIAL DEMANDED**

**FILED**

**SEP 17 2001**

u/1:25/10  
William A. Shaw  
Prothonotary  
1 CC FO ARY

*[Signature]*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX and,  
BARBARA J. WILCOX,

Defendants.

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CIVIL DIVISION

NO. No. 2001-00867-CD

**REPLY TO NEW MATTER**

**A Jury Trial Demanded**

AND NOW, comes the Plaintiffs, Lester E. Caine and Carol B. Caine, by and through their attorneys, Andrew J. Leger, Jr., Esquire, and Leger Ball & Scotti, P.C., and files Plaintiff's Reply to New Matter, and in support thereof avers the following:

1. In response to the allegations contained in Paragraph 34 of the Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the Plaintiffs voluntarily assumed any known risk, or that the Plaintiffs were in any way negligent with respect to the happening of the accident which is the subject matter of this litigation. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

2. In response to the allegations contained in Paragraph 35 of the Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the conduct of the Defendants was not the legal and proximate cause of the occurrence giving rise to the instant lawsuit. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

3. In response to the allegations contained in Paragraph 36 of the Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the conduct of the Defendant was merely a remote cause of the accident which is the subject matter of this instant lawsuit. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

4. In response to the allegations contained in Paragraph 37 of the Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the Plaintiffs' damages sustained in the accident which is the subject matter of the instant lawsuit were caused in any way by any third person. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

5. In response to the allegations contained in Paragraph 38 of the Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the Plaintiffs' damages sustained in the accident which is the subject matter of the instant lawsuit were caused in any way by any third person and/or as a result of any intervening and/or superseding cause.

To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

6. In response to the allegations contained in Paragraph 39 of the Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the conduct of the Defendants was not the proximate cause of the occurrence giving rise to the instant lawsuit. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

7. In response to the allegations contained in Paragraph 40 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that Plaintiffs have failed to state a claim upon which relief can be granted. To the contrary, Plaintiffs have set forth viable causes of action against the Defendants.

8. In response to the allegations contained in Paragraph 41 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that Plaintiffs' injuries and damages were the result of an unavoidable accident. To the contrary, the damages and losses incurred by the Plaintiff were caused solely by the negligence of the Defendants.

9. In response to the allegations contained in Paragraph 42 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the Plaintiffs' injuries and damages were the result of a sudden emergency. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

10. In response to the allegations contained in Paragraph 43 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that Plaintiff's injuries and damages are unforeseeable consequential damages. To the contrary, the damages and losses incurred by the Plaintiffs were caused solely by the negligence of the Defendants.

11. In response to the allegations contained in Paragraph 44 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that the Plaintiffs failed to attempt to mitigate their damages.

12. In response to the allegations contained in Paragraph 45 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required.

13. In response to the allegations contained in Paragraph 46 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that Plaintiffs' claims are barred by any applicable provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, and it is denied that the Plaintiffs have not suffered "serious injury" as the term is defined in 75 Pa.C.S. § 1702. It is further denied that 75 Pa. C.S. § 1702 in any way bars and/or limits this cause of action.

14. In response to the allegations contained in Paragraph 47 of Defendant's New Matter, it is averred that the same set forth conclusions of law for which no response is required. However, to the extent that a response may be deemed necessary, it is denied that Plaintiffs' claims are barred by any applicable provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law.

Respectfully Submitted,

LEGER BALL & SCOTTI, P.C.

BY: 

Andrew J. Leger, Jr., Esquire

Pa. I.D. # 43702

3100 Grant Building

330 Grant Street

Pittsburgh, PA 15219

(412) 456-9700

Counsel for Plaintiff

**VERIFICATION**

I hereby verify that the statements contained in this Reply to New Matter are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Dated: 12 Sept. 2001

Lester E. Caine  
Lester E. Caine

**VERIFICATION**

I hereby verify that the statements contained in this Reply to New Matter are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Dated: 12 Sept 2001

Carol B. Caine

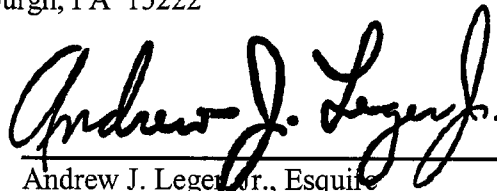
Carol B. Caine



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Plaintiffs' Reply to New Matter was served upon the following counsel of record by first-class mail, postage prepaid on this 14<sup>th</sup> day of September, 2001:

C. Peter Hitson, Esquire  
Sheehy, Mason & Hitson  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222

A handwritten signature in black ink, reading "Andrew J. Leger, Jr.", written over a horizontal line.

Andrew J. Leger, Jr., Esquire  
Counsel for Plaintiffs

*James F. McHugh*

**FILED**

SEP 17 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

No: 2001-00867-CD

***DEFENDANTS' PRAECIPE FOR  
SUBSTITUTION OF APPEARANCE***

Filed on Behalf of Defendants:

Emery E. and Barbara J. Wilcox

Counsel of Record for this Party:

DONALD H. SMITH, ESQUIRE  
PA I.D. #41011

HITSON & MASON  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222  
(412) 288-6200

**JURY TRIAL DEMANDED**

**FILED**

MAR 26 2003

m. / 11:01 w  
William A. Shaw  
Prothonotary  
w/c cfr

67  
628

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

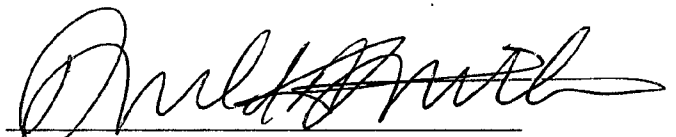
No: 2001-00867-CD

***DEFENDANTS' PRAECIPE FOR SUBSTITUTION OF APPEARANCE***

TO THE PROTHONOTARY:

Please enter my appearance in substitution for C. Peter Hitson, Esquire, on behalf of  
defendants, Emery E. Wilcox and Barbara J. Wilcox, in the above-captioned case.

HITSON & MASON  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222  
(412) 288-6200

A handwritten signature in black ink, appearing to read "Donald H. Smith", written over a horizontal line.

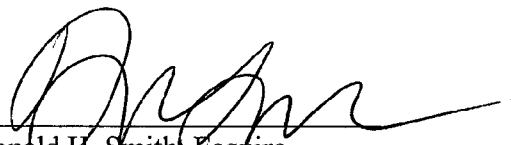
Donald H. Smith, Esquire  
Attorney for Defendants

***CERTIFICATE OF SERVICE***

I hereby certify that on March 21, 2003, a true and correct copy of the within *Defendants'*  
*Praecipe for Substitution of Appearance* was served by United States mail, postage prepaid, to and  
upon the following:

Andrew J. Leger, Jr., Esquire  
LEGER, BALL & SCOTTI, P.C.  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219

Timothy E. Durant, Esquire  
201 North Second Street  
Clearfield, PA 16830

  
Donald H. Smith, Esquire

**FILED**

**MAR 26 2003**

**William A. Shaw  
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and  
CAROL B. CAINE,

Plaintiffs,

vs.

EMERY E. WILCOX, and  
BARBARA J. WILCOX,

Defendants.

CIVIL DIVISION

NO. 2001-00867-CD

ISSUE NO.

**PRAECIPE TO SETTLE AND  
DISCONTINUE**

CODE:

FILED ON BEHALF OF:  
Lester E. Caine and Carol B. Caine  
Plaintiffs

COUNSEL OF RECORD:

ANDREW J. LEGER, JR, ESQUIRE.  
Pa I.D. No. #43702

LEGER & BALL, P.C.  
Firm I.D. No. 142  
3100 Grant Building  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 456-9700

**A JURY TRIAL DEMANDED**

**FILED**

SEP 26 2003

*m/11:20/2m* *Fun*  
**William A. Shaw**  
**Prothonotary**  
*1 SENT TO ATTORNEY*  
*CERT. + BOCC.*  
*COPY TO C/A*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LESTER E. CAINE and,  
CAROL B. CAINE,

Plaintiffs,

v.

EMERY E. WILCOX and,  
BARBARA J. WILCOX,

Defendants.

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CIVIL DIVISION

NO. No. 2001-00867-CD

**PRAECIPE TO SETTLE AND DISCONTINUE**

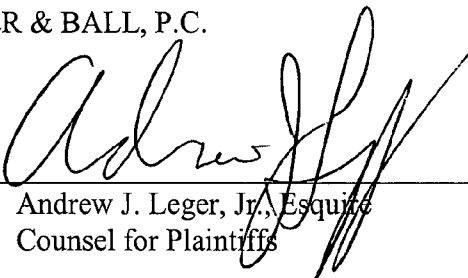
TO: WILLIAM SHAW, PROTHONOTARY

Kindly settle and discontinue this matter on behalf of the Plaintiffs, Lester E. Caine and Carol B. Caine, in the above-captioned action.

Respectfully submitted,

LEGER & BALL, P.C.

BY:

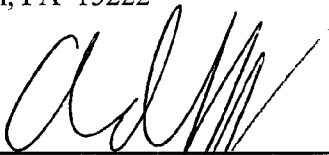
  
\_\_\_\_\_  
Andrew J. Leger, Jr., Esquire  
Counsel for Plaintiffs



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praecipe to Settle and Discontinue was served upon the following counsel of record by first-class mail, postage prepaid on this 25<sup>th</sup> day of September, 2003:

Donald H. Smith, Esquire  
Hitson & Mason  
20 Stanwix Street, Fourth Floor  
Pittsburgh, PA 15222



---

Andrew J. Leger, Jr., Esquire  
Counsel for Plaintiffs

**FILED**

SEP 26 2003

William A. Shaw  
Prothonotary

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

**CIVIL DIVISION**

**Lester E. Caine  
Carol B. Caine**

**Vs.**

**No. 2001-00867-CD**

**Emery E. Wilcox  
Barbara J. Wilcox**

**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 September 26, 2003, marked:

Settle and Discontinue

Record costs in the sum of \$132.54 have been paid in full by Andrew J. Leger.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 26th day of September A.D. 2003.

---

William A. Shaw, Prothonotary

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

BILL OF COSTS

Lester E. Caine, Carol B. Caine,

Vs.

2001-00867-CD

Emery E. Wilcox, Barbara J. Wilcox,

Total \$132.54

<u>Amount</u>	<u>Document</u>	<u>Paid By</u>
\$80.00	Filing Fee	Attorney Leger, Jr.
\$52.24	Sheriff Costs	Attorney Leger, Jr.
\$		
\$		
\$		

Certified from the record this 26th day of September, 2003.

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WILLIAM A. SHAW  
PROTHONOTARY