

01-1266-CD
MICHAEL N. FAIRMAN -vs- WESLEY N. WEYMERS, JR.

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

MICHAEL N. FAIRMAN,

Plaintiff

vs.

NO. 01-*1366*CD

WESLEY N. WEYMERS, JR.,

Defendant

Type of Pleading: Complaint

Filed on behalf of : Michael N. Fairman

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

AUG 21 2001

William A. Shaw
Prothonotary

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

MICHAEL N. FAIRMAN,	:	
	Plaintiff	:
vs.	:	NO. 01 - -CD
WESLEY N. WEYMERS, JR.,	:	
	Defendant	:

NOTICE

TO DEFENDANTS:

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 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 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.

Office of the Court Administrator
Clearfield County Courthouse
Second & Market Streets
Clearfield, Pennsylvania 16830
(814) 765-2641

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

MICHAEL N. FAIRMAN, :
Plaintiff :
vs. : NO. 01 - -CD
WESLEY N. WEYMERS, JR., :
Defendant :

COMPLAINT

NOW COMES the Plaintiff, Michael N. Fairman, by and through his attorneys, The Hopkins Law Firm, and avers as follows:

1. Plaintiff, Michael N. Fairman, is a resident of the Commonwealth of Pennsylvania, presently residing at R.D.#2, Box 332A, Reynoldsville, Pennsylvania 15851.
2. Defendant, Wesley N. Weymers, Jr., is a resident of the Commonwealth of Pennsylvania, presently residing at 2528 Meadow Road, Clearfield, Pennsylvania 16830.
3. On or about July 6, 2001, Plaintiff Michael N. Fairman was operating his 1980 Kawasaki motorcycle North on State Route 255 in Sandy Township, Clearfield County, Pennsylvania. Plaintiff was slowing down because the vehicle in front of him was making a turn onto Wall Street, Sandy Township, Clearfield County, when he was struck in the rear by a motor vehicle operated by Defendant.
4. Defendant was operating his vehicle in a negligent, careless and reckless manner so as to cause his automobile to strike the Plaintiff's motorcycle.

5. The negligence, carelessness and recklessness of Defendant Wesley Meyers, Jr., consisted of the following:

- a. Failing to yield to Plaintiff;
- b. Traveling at a rate of speed in excess of the permitted speed limit in the aforesaid area;
- c. Operating Defendant's automobile without due regard to the rights, safety, well being and position of Plaintiffs under the current circumstances;
- d. Operating Defendant's automobile without regard to the current weather and road conditions;
- e. Failing to control or stop her motor vehicle and striking Plaintiffs' motorcycle.

6. As a direct, proximate, natural, foreseeable and probable consequence of Defendant's negligence, carelessness and reckless conduct, Plaintiff was placed in a position of immediate peril and was struck by Defendant's motor vehicle, causing Plaintiff severe injuries which consisted of injuries to his knees, ankles and wrists, and other injuries which may yet develop.

7. As a direct and proximate result of Defendant's negligence, carelessness and reckless conduct, Plaintiff has suffered, and will suffer in the future, great pain, agony and inconvenience.

8. As a direct and proximate result of Defendant's negligence, carelessness and reckless conduct, Plaintiff suffered loss of income and, in the future, will suffer a reduction in his earning power.

9. As a direct and proximate result of Defendant's negligence, carelessness and reckless conduct, Plaintiff incurred, and will in the future incur, expenses for medical treatment and physical therapy in an amount not yet ascertained.

10. As a direct and proximate result of Defendant's negligence, carelessness and reckless conduct, Plaintiff has suffered loss in the quality of his life.

11. As a direct and proximate result of Defendant's negligence, carelessness and reckless conduct, Plaintiff has suffered serious injuries within the meaning of the Commonwealth of Pennsylvania Statutes.

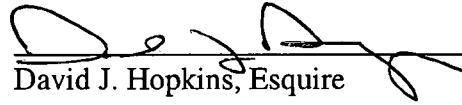
12. Defendant is liable for Plaintiff's injuries described herein insomuch as Plaintiff's injuries are the direct, proximate, natural, foreseeable and probable consequences of Defendant's negligence, carelessness and reckless conduct.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant for compensatory damages in an amount in excess of Twenty Thousand Dollars (\$20,000.00), plus costs of suit, interest, and for such other relief as the Court may deem appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by twelve jurors on all issues presented herein.

Respectfully submitted,



David J. Hopkins, Esquire
Supreme Court No. 42519
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

VERIFICATION

With full understanding that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, I verify that the statements made in this pleading are true and correct.


MICHAEL N. FAIRMAN

Dated: Aug. 20. 2001

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11408

FAIRMAN, MICHAEL N.

01-1366-CD

VS.

WEYMERS, WESLEY N. JR.

COMPLAINT

SHERIFF RETURNS

**NOW AUGUST 22, 2001 AT 2:27 PM DST SERVED THE WITHIN COMPLAINT ON
WESLEY N. WEYMERS, JR., DEFENDANT AT RESIDENCE, 2528 MEADOW ROAD,
CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MICHAEL
WEYMERS, SON, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT
AND MADE KNOWN TO HIM THE CONTENTS THEREOF.**

SERVED BY: SNYDER

Return Costs

Cost	Description
20.34	SHFF. HAWKINS PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

28th Day Of August 2001 *CH* *EHD*
WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,

Chester A. Hawkins
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

MICHAEL N. FAIRMAN,

Plaintiff,

VS.

WESLEY N. WEYMERS, JR.,

Defendant.

Case No.: 01-1366-CD

Praecipe for Appearance

FILED ON BEHALF OF DEFENDANT
Counsel of Record for this Party:
Pfaff, McIntyre, Dugas, Hartye & Schmitt
Louis C. Schmitt, Jr., Esquire
Pa. I.D. #52459
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
ON SEPTEMBER 6, 2001.

Atorneys for Defendant

FILED

SEP 10 2001

10/9/11 11:10 AM C

William A. Shaw

Prothonotary

MICHAEL N. FAIRMAN, : IN THE COURT OF COMMON PLEAS
Plaintiff, : OF CLEARFIELD COUNTY, PA
VS. : Case No.: 01-1366-CD
WESLEY N. WEYMERS, JR., :
Defendant. : JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for the Defendant,
WESLEY N. WEYMERS, JR., in the above-captioned action.

**PFAFF, McINTYRE, DUGAS, HARTYE &
SCHMITT**

Attorneys for Defendant

LOUIS C. SCHMITT, JR., ESQUIRE
PA I.D.#: 52459
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

MICHAEL N. FAIRMAN,

Plaintiff,

vs.

WESLEY N. WEYMERS, JR.,

Defendant.

Case No.: 01-1366-CD

Answer and New Matter

FILED ON BEHALF OF DEFENDANT
Counsel of Record for this Party:
McIntyre, Dugas, Hartye & Schmitt
Louis C. Schmitt, Jr., Esquire
Pa. I.D. #52459
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
ON OCTOBER 18, 2001.

Atorneys for Defendant

FILED

OCT 19 2001
m/10/01 cc
William A. Shaw
Prothonotary

MICHAEL N. FAIRMAN, : IN THE COURT OF COMMON PLEAS
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : Case No.: 01-1366-CD
WESLEY N. WEYMERS, JR., :
Defendant. :

ANSWER AND NEW MATTER

AND NOW, comes defendant, WESLEY N. WEYMERS, JR., by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter in response to the plaintiff's Complaint, saying as follows:

1. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 1 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.
2. Admitted.
3. The allegations contained in Paragraph 3 of plaintiff's Complaint are admitted in part and denied in part. It is admitted only that on or about July 6, 2001, defendant, Wesley N. Weymers, Jr., was operating a motor vehicle which made contact with the rear of a motorcycle on State Route 255 in Sandy Township, Clearfield County, Pennsylvania. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the remaining allegations

contained in Paragraph 3 of plaintiff's Complaint; those remaining allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

4. Denied.
5. Denied. Subparagraphs a through e, denied.
6. Denied.
7. Denied.
8. Denied.
9. Denied.
10. Denied.
11. Denied.
12. Denied.

WHEREFORE, defendant, Wesley N. Weymers, Jr., denied any and all liability to the plaintiff upon his Complaint, and respectfully requests that this Honorable Court enter judgment in his favor, with prejudice.

NEW MATTER

By way of further answer to the allegations contained in plaintiff's Complaint, and in support of his defenses against those allegations, defendant, Wesley N. Weymers, Jr., sets forth the following statements as New Matter:

13. Defendant, Wesley N. Weymers, Jr., hereby raises and asserts the rights, privileges, defenses and immunities provided to him within the Pennsylvania Motor Vehicle Financial Responsibility Act, 75 Pa. C.S.A. Section 1701, et seq.

WHEREFORE, defendant, Wesley N. Weymers, Jr., denies any and all liability to the plaintiff upon his Complaint, and respectfully requests that this Honorable Court enter judgment in his favor, with prejudice.

Respectfully submitted,

MCINTYRE, DUGAS, HARTYE & SCHMITT

Atorneys for Defendant

Louis C. Schmitt, Jr., Esquire
Pa. I.D. #52459
P.O. Box 533
Hollidaysburg, PA 16648

Notice to Plead

To: Plaintiff

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.

Attny for Defendant

VERIFICATION

I, Wesley N. Weymers, Jr., do hereby verify that I have read the foregoing **ANSWER**

AND NEW MATTER. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Wesley M. Weymers
Wesley N. Weymers, Jr.

WESLEY M. WEYMERS II

Date: 4 OCT 01

MICHAEL N. FAIRMAN, : IN THE COURT OF COMMON PLEAS
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : Case No.: 01-1366-CD
WESLEY N. WEYMERS, JR., :
Defendant. :

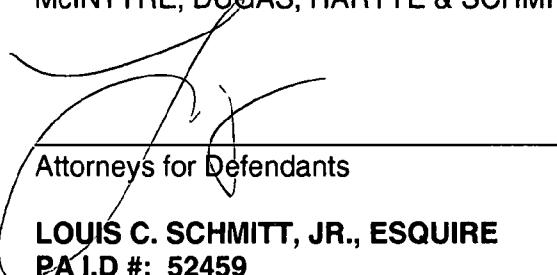
NOTICE OF SERVICE OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFF

TO: PROTHONOTARY

You are hereby notified that on the **25th** day of **OCTOBER, 2001**, Defendant, **WESLEY N. WEYMERS, JR.**, served Interrogatories and Request for Production of Documents by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

McINTYRE, DUGAS, HARTYE & SCHMITT


Attorneys for Defendants

LOUIS C. SCHMITT, JR., ESQUIRE
PA I.D #: 52459
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED
OCT 26 2001
M 1122100C
William A. Shaw
Prothonotary 

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

MICHAEL N. FAIRMAN, :
Plaintiff :
vs. : NO. 01 -1366-CD
WESLEY N. WEYMERS, JR., :
Defendant :
Type of Pleading: Answer to New Matter
: Filed on behalf of : Michael N. Fairman
: Counsel of Record for this party:
: DAVID J. HOPKINS, ESQUIRE
: Attorney at Law
: Supreme Court No. 42519
: 900 Beaver Drive
: DuBois, Pennsylvania 15801
: (814) 375-0300

FILED

NOV 02 2001

William A. Shaw
Prothonotary

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

MICHAEL N. FAIRMAN, :
Plaintiff :
vs. : NO. 01 -1366-CD
WESLEY N. WEYMERS, JR., :
Defendant :
:

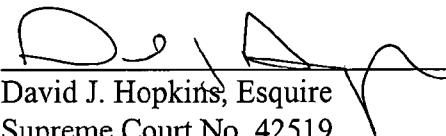
ANSWER TO NEW MATTER

AND NOW, comes Plaintiff, Michael N. Fairman, by and through his attorneys, The Hopkins Law Firm, and answers the New Matter of Defendant, Wesley N. Weymers, Jr., as follows:

13. Admitted in part and denied in part. Plaintiff admits the Pennsylvania Motor Vehicle Financial Responsibility Act, 75 Pa.C.S.A. Section 1701, et seq. may be applicable to the action before the Court. However, Plaintiff denies the Act grants Defendants any rights, privileges, defenses and immunities.

WHEREFORE, Defendant's New Matter should be dismissed with prejudice.

Respectfully submitted,


David J. Hopkins, Esquire
Supreme Court No. 42519
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

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

MICHAEL N. FAIRMAN, :
Plaintiff :
vs. : NO. 01 -1366-CD
:

WESLEY N. WEYMERS, JR., :
Defendant :
:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to New Matter, filed on behalf of Michael N. Fairman was forwarded on the 1^s_{st} day of November, 2001, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

Louis C. Schmitt, Jr., Esquire
McIntyre, Dugas, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648


David J. Hopkins, Esquire
Attorney for Michael N. Fairman
Supreme Court No. 42519
900 Beaver Drive
DuBois, PA 15801

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

MICHAEL N. FAIRMAN, :
Plaintiff :
vs. : NO. 01 -1366-CD
WESLEY N. WEYMERS, JR., :
Defendant :
: Type of Pleading: Praecipe to Discontinue
: Filed on behalf of: Michael N. Fairman
: Counsel of Record for this party:
: DAVID J. HOPKINS, ESQUIRE
: Attorney at Law
: Supreme Court No. 42519
: 900 Beaver Drive
: DuBois, Pennsylvania 15801
: (814) 375-0300

FILED

MAR 12 2002

**William A. Shaw
Prothonotary**

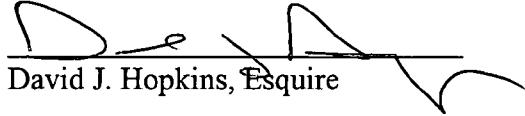
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

MICHAEL N. FAIRMAN, :
Plaintiff :
: vs. : NO. 01 -1366-CD
: :
WESLEY N. WEYMERS, JR., :
Defendant :
:

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.


David J. Hopkins, Esquire

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

CIVIL DIVISION

Michael N. Fairman

Vs. **No. 2001-01366-CD**
Wesley N. Weymers Jr.

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 March 12, 2002 marked:

Settled and Discontinued

Record costs in the sum of \$110.34 have been paid in full by Plaintiff Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 12th day of March A.D. 2002.

William A. Shaw, Prothonotary