

01-1855-CD  
CHERYL L. PATAKY et ux -vs- CHRISTOPHER LEE MILLER et al

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CHERYL L. PATAKY AND ) NO. 2001- 1855-CV  
DUANE T. PATAKY, husband )  
and wife, ) JURY TRIAL DEMANDED  
Plaintiffs, )  
v. ) TITLE: Notice and Complaint  
)  
CHRISTOPHER LEE MILLER and )  
SUSAN I. MILLER, )  
Defendants. ) Filed on Behalf of Plaintiffs  
)  
Counsel of Record for  
Plaintiffs:  
)  
Daniel McGee, Esquire  
Attorney I.D. No. 26019  
)  
Delafield, McGee, Jones  
& Kauffman, L.L.P.  
) 300 S. Allen Street, Suite 300  
) State College, PA 16801-4841  
) (814) 237-6278

**FILED**

NOV 08 2001

William A. Shaw  
Prothonotary

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CHERYL L. PATAKY AND )  
DUANE T. PATAKY, husband )  
and wife, )  
Plaintiffs, )  
)  
v. ) No. 2001-  
)  
CHRISTOPHER LEE MILLER and ) JURY TRIAL DEMANDED  
SUSAN I. MILLER, )  
Defendants. )

**NOTICE**

TO: Christopher Lee Miller Susan I. Miller  
R. R. #2, Box 129 R. R. #2, Box 129  
Ginter, Pennsylvania 16651 Ginter, Pennsylvania 16651

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 KNOW A LAWYER, CALL OR WRITE THE PROTHONOTARY, COURTHOUSE, CLEARFIELD, PENNSYLVANIA 16830; TELEPHONE NUMBER (814) 765-2641. 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.

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830  
(814) 765-2641

*Daniel McGee*

---

Delafield, McGee, Jones  
& Kauffman, L.L.P.  
300 South Allen Street, Suite 300  
State College, PA 16801-4841  
(814) 237-6278

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CHERYL L. PATAKY AND )  
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CHRISTOPHER LEE MILLER and ) JURY TRIAL DEMANDED  
SUSAN I. MILLER, )  
Defendants. )

COMPLAINT

NOW COMES Cheryl L. Pataky and Duane T. Pataky, by and through their attorneys, Delafield, McGee, Jones & Kauffman, L.L.P., and make the following complaint against Defendants:

1. Plaintiffs, Cheryl L. Pataky and Duane T. Pataky, hereafter Plaintiffs, are adult individuals who are husband and wife, and who reside in Houtzdale, Clearfield County, Pennsylvania, with a mailing address of Post Office Box 103, Houtzdale, Pennsylvania (16651).

2. Defendant Christopher Lee Miller is an adult individual whose last known address is R. R. #2, Box 129, Ginter, Clearfield County, Pennsylvania (16651).

3. Defendant Susan I. Miller is an adult individual and the mother of Christopher Lee Miller and resides at R. R. 2, Box 129, Ginter, Clearfield County, Pennsylvania (16651).

4. On November 12, 1999, at approximately 7:14 p.m., Plaintiff Cheryl L. Pataky was lawfully and carefully operating her vehicle on State Route 53, Spring Street, Houtzdale, Clearfield County, Pennsylvania, and was stopped at the stop sign

at the intersection of Don Street and Spring Street, waiting to make a left turn.

5. At the aforesaid time and place, Defendant Christopher Lee Miller was operating a 1989 Ford Probe owned by Susan I. Miller and negligently and carelessly crashed the vehicle into the rear of a motor vehicle being driven by Desiree Jones, which was stopped behind the Pataky vehicle. The Jones vehicle was propelled into the rear of the car being driven by Plaintiff Cheryl L. Pataky.

6. As a result of the collision, Cheryl L. Pataky suffered numerous severe and serious injuries as set forth more fully below.

7. The injuries and damages to Plaintiffs hereafter set forth were the direct and proximate result of the negligence, carelessness, and/or recklessness of Defendant Christopher Lee Miller, which consisted of the following:

A. Failing to take proper action to avoid striking the vehicle driven by Plaintiff Cheryl L. Pataky when he saw or should have seen that said vehicle was stopped in the roadway in full view in front of him;

B. Being inattentive and failing to maintain a proper lookout of the road, other vehicles on the roadway, and surrounding traffic conditions at all times;

C. Failing to stop his vehicle before causing a collision;

D. Operating his motor vehicle at a speed that was unreasonable and dangerous under the conditions and circumstances then and there existing;

E. Failing to keep his vehicle under proper control under the circumstances;

F. Failing to stop within the assured clear distance ahead;

G. Operating his vehicle in an erratic manner;

H. Driving his vehicle upon the highway in a manner endangering persons and property and in a reckless manner with careless disregard for the rights and safety of others;

I. Failing to maintain his vehicle in a proper mechanical condition;

J. Failing to properly inspect the vehicle to determine any mechanical defects;

K. Failing to observe due care and caution as required under the circumstances; and

L. Violating the Motor Vehicle Code of the Commonwealth of Pennsylvania, including, but not limited to, the following Statutes:

1. 75 Pa. C.S.A. 3361, by driving his vehicle at a speed greater than that permitting the vehicle to be brought to a stop within the assured clear distance ahead;

2. 75 Pa. C.S.A. 3714, by driving his vehicle in careless disregard for the safety of persons and/or property; and

3. 75 Pa. C.S.A. 3361, by driving his vehicle at a speed greater than was reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing.

8. The acts of negligence of Defendant Christopher Lee Miller as set forth above amount to negligence *per se* in addition to constituting actual negligence.

COUNT I

Plaintiff Cheryl L. Pataky v.  
Defendant Christopher Lee Miller

9. Plaintiff Cheryl L. Pataky incorporates by reference Paragraphs 1 through 8 of this Complaint as if set forth in full.

10. Solely as a result of the negligence, carelessness and recklessness of Defendant, Plaintiff Cheryl L. Pataky suffered, without limitation by specification, the following injuries and/or aggravation of pre-existing conditions, all of which are or may be serious and permanent:

A. Injuries to the bones, muscles, tissues and ligaments of her neck, shoulders, back, arms, hips, and other parts of her body;

B. Disc bulging, foraminal disc protrusions, and/or herniations of discs at L2-3, L3-4, and L4-5 vertebrae;

C. Whiplash-type injury to cervical and lumbar vertebrae;

D. Persistent lumbar syndrome;

E. Lumbosacral strain;

F. Combined left femoral and sciatic radiculopathy with foraminal disc herniations at L2-3 and L3-4 and post-traumatic dynamic segmental instability at L4-5;

G. Discogenic pain syndrome, lumbar radiculalgia, and chronic low-back pain; and

H. Other severe and serious injuries as set forth more fully in Plaintiff Cheryl L. Pataky's medical records and physicians' reports.

11. As a further result of said accident, Plaintiff Cheryl L. Pataky has been or will be obligated to receive and undergo medical attention and care and to expend various sums of money or to incur various medical expenses, which expenses have or may exceed the sum recoverable under the limits of 75 Pa. C.S.A. 1711 and may be obliged to continue to expend such sums or to incur such expenditures for an indefinite time in the future.

12. As a further result of said accident, Plaintiff Cheryl L. Pataky has suffered and will suffer great physical pain and suffering, emotional and mental anguish, inconvenience, and a loss of normal and everyday pleasures and enjoyment of life.

13. As a further result of said accident, Plaintiff Cheryl L. Pataky has suffered uncompensated loss of her earnings and an

impairment of her earning capacity and power, and such loss of income and/or impairment of her earning capacity and power has or may exceed the sum recoverable under the limits set forth in 75 P.S. 1711.

14. As a further result of said accident, Plaintiff Cheryl L. Pataky was unable to perform her usual household duties and has suffered an impairment of her ability to perform household duties which has resulted in an economic loss to her.

15. As a further result of said accident, Plaintiff Cheryl L. Pataky also sustained property damage to her vehicle.

16. The damages incurred by Plaintiff Cheryl L. Pataky exceed the jurisdictional amount for arbitration and a jury trial is demanded.

WHEREFORE, Plaintiff Cheryl L. Pataky respectfully requests judgment in her favor and against Defendant Christopher Lee Miller, plus interest and costs of suit.

COUNT II

Plaintiff Duane T. Pataky v.  
Defendant Christopher Lee Miller

17. Plaintiff Duane T. Pataky incorporates by reference Paragraphs 1 through 16 of this Complaint as if set forth in full.

18. At all times material hereto, Plaintiff Duane T. Pataky has been and is the husband of Plaintiff Cheryl L. Pataky.

19. As a result of the accident described above, Plaintiff Duane T. Pataky has been deprived of the assistance, society,

companionship, and consortium of Plaintiff Cheryl L. Pataky, all of which has been to his great detriment and loss.

20. As a further result of the accident described above, Plaintiff Duane T. Pataky has been or will be obligated to expend various sums of money and to incur various expenses required for the medical attention, hospitalization, and treatment of his wife which has or may exceed the sum recoverable under the limits of 75 Pa. C.S.A. §1711, and may be obligated to continue to expend such sums or incur such expenditures for an indefinite time in the future.

21. As a further result of said accident, Plaintiff Duane T. Pataky sustained property damage to the 1998 Volkswagen Jetta operated by Cheryl P. Pataky.

WHEREFORE, Plaintiff Duane T. Pataky respectfully requests judgment in his favor and against Defendant Christopher Lee Miller, plus interest and costs of suit.

### COUNT III

#### Plaintiffs v. Defendant Susan I. Miller

22. Plaintiffs incorporate by reference Paragraphs 1 through 21 of this Complaint as if set forth in full.

23. Defendant Susan I. Miller is the mother of Christopher Lee Miller who at the time of the accident was sixteen (16) years old and an inexperienced and incompetent driver. Susan I. Miller is independently liable as a result of the aforesaid collision in that she negligently entrusted her motor vehicle to Defendant

Christopher Lee Miller when she knew, or, in the exercise of reasonable care, should have known, that Christopher Lee Miller was an incompetent driver.

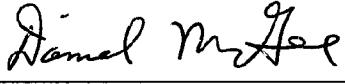
WHEREFORE, Plaintiffs respectfully request judgment in their favor and against Defendant Susan I. Miller, plus interest and costs of suit.

Respectfully submitted,

DELAFIELD, McGEE, JONES  
& KAUFFMAN, L.L.P.

Date: November 8, 2001

By:

  
\_\_\_\_\_  
Daniel McGee, Esquire  
Attorney for Plaintiffs  
Attorney I.D. No. 26019  
300 S. Allen St., Suite 300  
State College, PA 16801-4841  
(814) 237-6278

VERIFICATION

CHERYL L. PATAKY deposes and states that the facts set forth in the foregoing pleading are true and correct to the best of her knowledge, information and belief and that the same are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

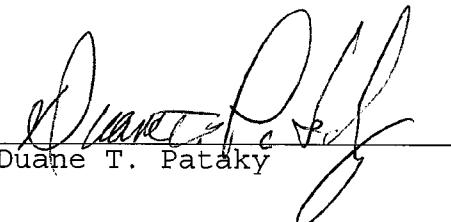
Dated: 11-8-01

Cheryl L. Pataky  
Cheryl L. Pataky

VERIFICATION

DUANE T. PATAKY deposes and states that the facts set forth in the foregoing pleading are true and correct to the best of his knowledge, information and belief and that the same are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: 11-08-01

  
Duane T. Pataky

**FILED**

NOV 08 2001

*Red*  
01333/m  
William A. Shaw  
Prothonotary  
PP 80-87 ATR

3 CERT TO ATT

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 11746

PATAKY, CHERYL L. & DUANE T.

01-1855-CD

VS.

MILLER, CHRISTOPHER LEE & SUSAN I.

**COMPLAINT**

**SHERIFF RETURNS**

**NOW NOVEMBER 13, 2001 AT 11:19 AM EST SERVED THE WITHIN COMPLAINT  
ON CHRISTOPHER LEE MILLER, DEFENDANT AT RESIDENCE, RR#2 BOX 129,  
GINTER, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CHRISTOPHER  
LEE MILLER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND  
MADE KNOWN TO HIM THE CONTENTS THEREOF.**

**SERVED BY: DAVIS/MORGILLO**

**NOW NOVEMBER 13, 2001 AT 11:19 AM EST SERVED THE WITHIN COMPLAINT  
ON SUSAN I. MILLER, DEFENDANT AT RESIDENCE, RR#2 BOX 129, GINTER,  
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CHRISTOPHER LEE  
MILLER, SON A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND  
MADE KNOWN TO HIM THE CONTENTS THEREOF.**

**SERVED BY: DAVIS/MORGILLO**

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**Return Costs**

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

**FILED**

DEC 14 2001  
01:00 pm  
William A. Shaw  
Prothonotary

**Sworn to Before Me This**

14th Day Of December 2001

William A. Shaw

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

**So Answers,**

Ches A. Hawkins RE  
by Marilyn Harry  
Chester A. Hawkins  
Sheriff

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CHERYL L. PATAKY AND )  
DUANE T. PATAKY, husband )  
and wife, )  
Plaintiffs, )  
)  
v. ) No. 2001-1855-CD  
)  
CHRISTOPHER LEE MILLER and ) JURY TRIAL DEMANDED  
SUSAN I. MILLER, )  
Defendants. )

PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Kindly mark the above-captioned matter settled and discontinued.

Respectfully submitted,

DELAFIELD, McGEE, JONES  
& KAUFFMAN, L.L.P.

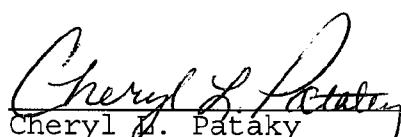
Date: January 3<sup>rd</sup>, 2002

By:

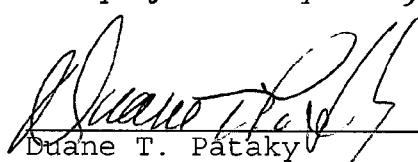


Daniel McGee, Esquire  
Attorney for Plaintiffs  
Attorney I.D. No. 26019  
300 S. Allen St., Suite 300  
State College, PA 16801-4841  
(814) 237-6278

Date: January 3<sup>rd</sup>, 2002

  
Cheryl L. Pataky

Date: January 3<sup>rd</sup>, 2002

  
Duane T. Pataky

**FILED**

JAN 07 2002

William A. Shaw  
Prothonotary

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CHERYL L. PATAKY AND )  
DUANE T. PATAKY, husband )  
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v. ) No. 2001-1855-CD  
)  
CHRISTOPHER LEE MILLER and ) JURY TRIAL DEMANDED  
SUSAN I. MILLER, )  
Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the  
Praecipe for Discontinuance in the above-captioned matter was  
served on Defendants by depositing the same within the custody of  
the United States Postal Service, first class, postage prepaid,  
on January 4, 2002, addressed to:

Christopher Lee Miller  
Susan I. Miller  
R. R. #2, Box 129  
Ginter, Pennsylvania 16651

Respectfully submitted,

DELAFIELD, McGEE, JONES  
& KAUFFMAN, L.L.P.

By: Daniel McGee  
Daniel McGee, Esquire  
Attorney for Plaintiffs  
Attorney I.D. No. 26019  
300 S. Allen St., Suite 300  
State College, PA 16801-4841  
(814) 237-6278

**FILED**

JAN 07 2002

17|2,18| NO CC

William A. Shaw  
Prothonotary

Court. Doc. to atty m/s/da

Copy to CA  
800

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**COPY**

**Cheryl L. Pataky and  
Duane T. Pataky**

Vs.  
**Christopher Lee Miller and  
Susan I. Miller**

**No. 2001-01855-CD**

**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 January 7, 2002 marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Daniel McGee, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 7th day of January A.D. 2002.



\_\_\_\_\_  
William A. Shaw, Prothonotary