

04-393-CD  
PETER W. FRAILEY vs. HARVEY J. MILLER

Peter W. Frailey vs. Harvey J. Miller  
2004-393-CD

Date: 4/9/2008  
Time: 01:54 PM  
Page 1 of 3

**Clearfield County Court of Common Pleas**

ROA Report  
Case: 2004-00393-CD

User: LMILLER

Current Judge: Fredric Joseph Ammerman

Peter W. Frailey vs. Harvey J. Miller

Civil Other

Date	Judge
3/22/2004 ✓ Filing: Civil Complaint Paid by: Woomer, Robert B. Esq (attorney for Frailey, Peter W.) Receipt number: 1875822 Dated: 03/22/2004 Amount: \$85.00 (Check) 1 Writ to Atty.	No Judge
4/26/2004 ✓ Praeclipe For Appearance on Behalf of Defendant, HARVEY J. MILLER. filed by, s/Querino R. Torretti, Esquire 1 cc to Atty	No Judge
5/4/2004 ✓ Notice of Service of Plaintiff's First Set Of Interrogatories And Request For Production Of Documents to Defendant Harvey J. Miller. filed by, s/Robert B. Woomer, Esq. no cc	No Judge
5/6/2004 ✓ Answer And New Matter. filed by, s/Querino R. Torretti, Esquire Verification s/Harvey J. Miller Certificate of Service no cc	No Judge
5/14/2004 ✓ Plaintiff's Reply to New Matter filed by Atty. Woomer No cc.	No Judge
5/17/2004 ✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
6/9/2004 ✓ Notice of Service of Answers to Plaintiff's First Set of Interrogatories and Request For Production of Documents Directed to Defendant, Harvey J. Miller, upon: Robert B. Woomer, Esquire s/Querino R. Torretti, Esq. no cc	No Judge
✓ Notice of Service of Defendant's First Set Of Interrogatories To Plaintiff And Defendant's Request For Production Of Documents Directed To Plaintiff, upon: Robert B. Woomer, Esquire no cc	No Judge
8/18/2004 ✓ Plaintiff's Motion to Consolidate, filed by s/Robert B. Woomer, Esq. No CC ✓ Praeclipe to Request Argument/Hearing, filed by s/Robert B. Woomer, Esq. No CC	No Judge
8/23/2004 ✓ Defendant Harvey J. Miller's Answer to Plaintiff's Motion to Consolidate. Filed by s/Querino R. Torretti, No cc	No Judge
8/25/2004 ✓ Rule To Show Cause, NOW, THIS 24th day of August, 2004, Rule issued upon the Defendants, to show cause why the motion to Consolidate should not be granted. Said Rule Returnable the 22nd day of September, 2004 at 1:30 P.M Courtroom No. 1, Clfd. Co. Courthouse. /s/Fredric J. Ammerman, President Judge. 2CC Atty Woomer w/Memo Re: Service of Rule	Fredric Joseph Ammerman
9/7/2004 ✓ Certificate of Service of Plaintiff's Motion to Consolidate and rule, filed by Atty. Woomer no cert. copies.	Fredric Joseph Ammerman
9/21/2004 ✓ Notice of Service of Plff. Answers to Def. Interrogatories and Request for Production of Documents filed by Atty. Woomer. No cc.	Fredric Joseph Ammerman
9/24/2004 ✓ Order, NOW, this 22nd day of September, 2004, following argument relative the Motion to consolidate, it is the ORDER of this Court as follows: 1. There being no objection to the Plaintiffs' Motion to Consolidate, it is therefore the ORDER of this Court that the said Motion be and is hereby granted and the above-captioned case consolidated with No. 04-1076-CD 2. Counsel shall have no more than twenty days from this date in which to submit letter brief to the court relative the Defendant's Preliminary Objections as aforesaid; 3. All future filings shall be to case no. 04-393-CD. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1 CC Atty: Woomer, Torretti.	Fredric Joseph Ammerman

Date: 4/9/2008

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 01:54 PM

Page 2 of 3

ROA Report

Case: 2004-00393-CD

Current Judge: Fredric Joseph Ammerman

Peter W. Frailey vs. Harvey J. Miller

**Civil Other**

Date	Judge
10/25/2004 ✓ X ORDER filed. NOW, this 22nd day of October, 2004, the Court being in receipt of briefs relative the Preliminary Objections of Def. Bierly and Penns Valley Livestock Auction, Inc. upon consideration of the same, it is the ORDER of this Court that said Preliminary Objections be and are hereby Dismissed. The Court notes that nothing in this Order is to be construed as preventing the Def. from raising similar issue(s) in a motion for summary judgment following further Discovery. S/FJA 2 CC to Atty. Woomer, Torretti	Fredric Joseph Ammerman
12/27/2004 ✓ X Notice of Service of Notice of Deposition of Darlene R. Bierly, on behalf of Plaintiff Peter W. Frailey, filed by s/ Robert B. Woomer, Esquire. No CC	Fredric Joseph Ammerman
✓ X Notice of Service of Notice of Deposition of Harvey J. Miller, on behalf of Plaintiff Peter W. Frailey, filed by s/ Robert B. Woomer, Esquire. No CC	Fredric Joseph Ammerman
✓ X Notice of Service of Notice of Deposition of Noah Hostetler, on behalf of Plaintiff Peter W. Frailey, filed by s/ Robert B. Woomer, Esquire. No CC	Fredric Joseph Ammerman
1/7/2005 ✓ X Notice of Service of Deposition of Peter W. Frailey, on behalf of Defendant Harvey J. Miller, served upon Robert B. Woomer, Esquire; James N. Bryant, Esquire; and Lori Hackenberg, Esquire on Jan. 6, 2005. Filed by s/ Querino R. Torretti, Esquire. No CC	Fredric Joseph Ammerman
1/12/2005 ✓ X Notice of Service Of Interrogatories and Request For Production of Documents Directed to Defendants Darlene R. Bierly and Penns Valley Livestock Auction, filed by s/ Robert B. Woomer, Esquire. No CC	Fredric Joseph Ammerman
✓ X Notice of Service Of Interrogatories and Request For Production of Documents Directed to Noah Hostetler, filed by s/ Robert B. Woomer, Esquire. No CC	Fredric Joseph Ammerman
1/31/2005 ✓ X Defendants' Answer To Plaintiff's Interrogatories and Request For Production of Documents Directed To Defendants Darlene R. Bierly and Penns Valley Livestock Auction. No CC	Fredric Joseph Ammerman
5/30/2006 ✓ X Praecipe to Enter Appearance, filed. Kindly enter my appearance as co-counsel with Robert B. Woomer, Esq. on behalf of Plaintiff, Peter W. Frailey, filed by s/ Richard G. Talarico Esq. No CC., copy to C/A	Fredric Joseph Ammerman
6/1/2007 ✓ X Certificate of Readiness for Jury Trial, filed by Richard G. Talarico, Esquire. Fredric Joseph Ammerman No CC	Fredric Joseph Ammerman
✓ X Notice of Change of Address of The Law Firm of Woomer & Hall LLP, New Address:	Fredric Joseph Ammerman
Woomer & Hall LLP 2945 Banksburg Road, Suite 200 Pittsburgh, PA 15216-2749 Phone: (412)388-0848 Fax: (412)388-0946	
✓ Filed by s/Richard G. Talarico, Esquire. No CC	
7/27/2007 ✓ X Order, this 27th day of July, 2007, it is Ordered that a Pre-Trial Conference shall be held on the 24th day of August, 2007 in Chambers at 2:00 p.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty: Woomer & Talarico, Torretti	Fredric Joseph Ammerman
8/27/2007 ✓ X Order, this 24th day of August, 2007, it is Ordered that the matter be continued. The Court Administrator shall list the case for jury trial in the Winter Term, 2008 of Court. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty: R. Woomer, R. Talarico, Q. Torretti, Bryant, Hackenberg	Fredric Joseph Ammerman

Date: 4/9/2008  
Time: 01:54 PM  
Page 3 of 3

**Clearfield County Court of Common Pleas**

ROA Report  
Case: 2004-00393-CD

User: LMILLER

Current Judge: Fredric Joseph Ammerman

Peter W. Frailey vs. Harvey J. Miller

Civil Other

Date	Judge
10/15/2007 ✓ <input checked="" type="checkbox"/> Order, this 12th day of Oct., 2007, it is the Order of the Court that a pre-trial conference has been scheduled for Nov. 14, 2007 at 9:30 a.m. in Judges Chambers. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty: Toreth, Woomer	Fredric Joseph Ammerman
10/29/2007 ✓ <input checked="" type="checkbox"/> Motion For Summary Judgment, filed by s/ James N. Bryant, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007 ✓ <input checked="" type="checkbox"/> Order, this 31st day of Oct., 2007, Rule returnable the 30th day of Nov., 2007, for filing written response. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Atty. Bryant	Fredric Joseph Ammerman
11/16/2007 ✓ <input checked="" type="checkbox"/> Order, this 14th day of Nov., 2007, following pre-trial conference, it is Ordered: Jury Selection will be held on April 3, 2008 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for April 16, 17, and 18, 2008 at 9:00 a.m. in Courtroom 1. (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1 CC Atty: Woomer, Bryant, Torretti, Hackenberg, Talarico	Fredric Joseph Ammerman
1/22/2008 ✓ <input checked="" type="checkbox"/> Notice of Service, filed. On January 17, 2008, that a true and correct copy of the foregoing Notice of Videotape Deposition for Use at Trial of Manish Sapra MD was served upon Querino R. Torretti Esq. by first class mail, filed by s/ Richard G. Talarico Esq. NO CC.	Fredric Joseph Ammerman
2/4/2008 ✓ <input checked="" type="checkbox"/> Praeclipe for Hearing on Motion for Summary Judgment, filed by s/ James N. Bryant Esq. NO CC.	Fredric Joseph Ammerman
2/11/2008 ✓ <input checked="" type="checkbox"/> Return of Service of Subpoena to Produce Documents or Things for Discovery pursuant to Rule 4009.22 directed to Commissioner Jeffrey B. Miller, Custodian of Records, Pennsylvania State Police, filed by s/ Richard G. Talarico Esq. No CC.	Fredric Joseph Ammerman
2/12/2008 ✓ <input checked="" type="checkbox"/> Order, this 11th day of Feb., 2008, argument on Motion for Summary Judgment is scheduled for March 27, 2008 at 1:30 p.m. in Courtroom 1. By The court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Atty. Bryant	Fredric Joseph Ammerman
2/15/2008 ✓ <input checked="" type="checkbox"/> Certificate of Service, filed. That a true and correct copy of the Order issued by the Honorable Fredric J. Ammerman dated February 11, 2008 was served on Robert B. Woomer Esq., Richard G. Talarico Esq., Querino R. Torretti Esq., and Lori Hackenberg Esq., filed by s/ James N. Bryant Esq. No CC.	Fredric Joseph Ammerman
4/1/2008 ✓ <input checked="" type="checkbox"/> Stipulation, AND NOW, by agreement of counsel of the parties, we hereby release Darlene R. Bierly, Penns Valley Livestock Auction Inc., a Pennsylvania Corporation t/d/b/a Penns Valley Livestock Auction, from the above-captioned lawsuit and this matter shall be marked Discontinued as to Darlene R. Bierly, Penns Valley Livestock Auction Inc., a Pennsylvania Corporation t/d/b/a Penn Valley Livestock Auction, filed by s/ Richard G. Talarico Esq., s/ Querino R. Torretti Esq and s/ James N. Bryant Esq. 1CC Atty: Bryant, Torretti and Talarico (envelopes provided by Atty Bryant)	Fredric Joseph Ammerman
4/8/2008 ✓ <input checked="" type="checkbox"/> Order, this 8th day of April, 2008, it is Ordered that the three day Civil Jury Trial scheduled to begin on April 16, 2008 is rescheduled to begin on April 17, 2008 at 9:00 a.m. at the Multi-Purpose Center. By The Court, /s/ Fredric J. Ammerman, pres. Judge. CC to Atty: Woomer, Torretti, Hackenberg, Talarico	Fredric Joseph Ammerman

4-16-08 ✓ Order, dated 4-15-08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendant.

CIVIL DIVISION

Docket No.: 04 - 393-4

**COMPLAINT IN CIVIL ACTION**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

**FILED**

MAR 22 2004

William A. Shaw  
Prothonotary

**ORIGINAL**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY

CIVIL DIVISION

Plaintiff,

Docket No. :

vs.

HARVEY J. MILLER

Defendants.

**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 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830  
(814) 765-2641 ext. 32

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. :

vs.

HARVEY J. MILLER,

Defendant.

**COMPLAINT IN CIVIL ACTION**

AND NOW, comes Plaintiff, Peter W. Frailey, by and through his attorneys, Robert B. Woomer, Esquire, and Woomer & Friday LLP, and complains and alleges as follows:

1. Plaintiff, Peter W. Frailey, is an adult individual residing at 1338 Old Route 322, Philipsburg, Centre County, Pennsylvania 16866, and has been at all times relevant hereto.
2. Defendant, Harvey J. Miller, is an adult individual residing at S.R. 410 and T.R. 608, Punxsutawney, Jefferson County, Pennsylvania 15767, and has been at all times relevant hereto.
3. On July 16, 2002 at approximately 6:40 a.m., Plaintiff was operating a 1988 Ford Aeromax Truck east bound on State Route 410 while, at the same time, Defendant was operating a horse and buggy (hereinafter "vehicle") west bound on State Route 410.
4. On the date and time stated above, Defendant suddenly and without warning lost control of the buggy, crossed over the centerline and struck Plaintiff's vehicle head on.
5. At all times relevant and material hereto, Defendant was the owner and operator of the buggy.
6. At all times relevant and material hereto, Defendant was the owner and trainer of the horse.

7. As a result of the head-on collision, Defendant's horse was propelled up over the hood of the truck and into the windshield of the truck, injuring the Plaintiff.

8. The above-stated accident was a direct and proximate result of the negligence, carelessness and recklessness of the defendant in the following particulars:

- a) In failing to ensure that the movement of defendant's vehicle could be made with safety;
- b) In failing to abide by the Motor Vehicle Code, specifically §3301 of the Pennsylvania Motor Vehicle Code relating to Driving on Right Side of Roadway;
- c) In failing to operate defendant's brakes or other mechanisms of defendant's vehicle in a manner so as to avoid the accident;
- d) In failing to sound defendant's horn or other warning mechanisms to warn nearby motorists of the danger created by defendant's vehicle;
- e) In failing to maintain defendant's vehicle in a condition safe for its intended use;
- f) In failing to keep defendant's vehicle and horse under proper control;
- g) In the defendant driver being inattentive and failing to maintain control over the horse pulling his buggy;
- h) In failing to properly train the horse pulling the buggy so as to be "road worthy;" and
- i) In failing to be properly trained in the use of a horse and buggy.

9. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant, Plaintiff has sustained the following injuries, some or all of which may be continuing and permanent in nature:

- a) post-traumatic stress disorder;
- b) closed head injury;
- c) bruises, contusions and other injuries in or about the right leg and knee;
- d) bruises, contusions and other injuries in or about nerves, muscles, bones, tendons, ligaments, tissues and vessels of the body;

- e) nervousness, emotional tension, anxiety and depression;
- f) inability to sleep due to constant, severe and persistent pain; and
- g) other injuries to be proven at trial.

10. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant, as above-stated, Plaintiff has suffered the following damages, some or all of which may be permanent in nature:

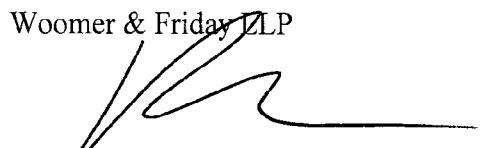
- a) Great pain, suffering, inconvenience, embarrassment, mental anguish, and emotional and psychological trauma.
- b) Plaintiff will be required to expend large sums of money for medical treatment and care, hospitalization, medical supplies, surgical appliances, rehabilitation and therapeutic treatment, medicines, and other attendant services.
- c) Lost earnings, and plaintiff's earning capacity has been reduced and may be permanently impaired.
- d) Inability to enjoy various pleasures of life that were previously enjoyed;
- e) Loss and impairment of general health, strength, and vitality.

11. Plaintiff has selected the Full Tort option under the Pennsylvania Motor Vehicle Financial Responsibility Act and said Full Tort has been in effect at all times relevant and material hereto.

WHEREFORE, Plaintiff demands judgment for damages against defendant in an amount in excess of the jurisdictional limits of compulsory arbitration, together with court costs, interest and such other and further relief as this Honorable Court may deem just and equitable.

**A JURY TRIAL IS DEMANDED.**

Woomer & Friday LLP



Robert B. Woomer, Esq.  
Pa I.D. # 59030  
Attorney for Plaintiff

**VERIFICATION**

I, PETER W. FRAILEY, being duly sworn according to law, depose and say that the facts contained in the foregoing Complaint in Civil Action 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. Section 4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Peter W. Frailey", is written over a horizontal line. The signature is fluid and cursive, with a prominent 'P' at the beginning and a 'y' at the end.

**FILED**  
1152 1485.02

MAR 22 2004

William A. Shaw  
Prothonotary

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

**SUMMONS**

**Peter W. Frailey**

**Vs.**

**NO.: 2004-00393-CD**

**Harvey J. Miller**

**TO: HARVEY J. MILLER**

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: 03/22/2004

---

William A. Shaw  
Prothonotary

Issuing Attorney:

Robert B. Woomer Esq  
3220 West Liberty Ave.  
Pittsburgh, PA 15216

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

Peter W. Frailey,

Plaintiff

vs.

Harvey J. Miller,

Defendant

: CIVIL DIVISION  
: No. 2004-00393-CD  
:  
: Type of Pleading:  
: Praecipe For Appearance  
:  
: Filed on Behalf of:  
: Plaintiffs  
:  
:  
: Counsel of Record for  
: Plaintiffs  
: Querino R. Torretti,  
: Esquire  
: Supreme Court I.D.  
: No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243

FILED

APR 26 2004

AM/1:10/04  
William A. Shaw  
Prothonotary

I CERTIFY

**FILED**

APR 26 2004

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

**NOTICE OF SERVICE OF  
PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT  
HARVEY J. MILLER**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

**FILED**

**MAY 04 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No.: 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

**NOTICE OF SERVICE OF PLAINTIFF'S FIRST SET OF INTERROGATORIES  
AND REQUEST FOR PRODUCTION OF DOCUMENTS ON DEFENDANT  
HARVEY J. MILLER**

I hereby certify that on April 30, 2004 an original set of *Plaintiff's First Set of Interrogatories and Request for Production of Documents Directed to Defendant Harvey J. Miller* were served by first class U.S. mail, postage prepaid, upon Defendant's counsel, to-wit:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851

Woomer & Friday LLP

Robert B. Woomer, Esq.  
Pa I.D. # 59030  
Attorney for Plaintiff

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

FILED  
MAY 14 2004  
MAY 04 2004  
cc  
W.A.S.  
William A. Shaw  
Prothonotary/Clerk of Courts

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

Peter W. Frailey,

Plaintiff

vs.

Harvey J. Miller,

Defendant

:  
: CIVIL DIVISION  
: No. 2004-00393-CD  
:  
: Type of Pleading:  
: Answer And New Matter  
:  
: Filed on Behalf of:  
: Defendant  
:  
:  
:  
: Counsel of Record for  
: Defendant  
: Querino R. Torretti,  
: Esquire  
: Supreme Court I.D.  
: No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243

**FILED**

**MAY 06 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

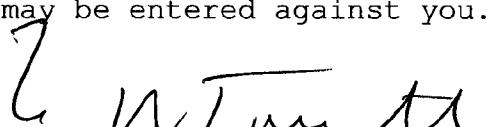
Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. :  
Harvey J. Miller, :  
Defendant : No. 2004-00393-CD

**NOTICE TO PLEAD**

TO: Peter W. Frailey  
c/o Robert B. Woomer, Esquire

YOU ARE HEREBY notified to file a written response to the  
enclosed Answer And New Matter within twenty (20) days from the  
date of service hereof or a judgment may be entered against you.

Dated: May 3, 2004

  
Querino R. Torretti, Esquire  
Attorney for Defendant  
PO Box 218, 600 E. Main St.  
Reynoldsville, PA 15851  
814-653-2243

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

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. : No. 2004-00393-CD  
Harvey J. Miller, :  
Defendant :  
:

**ANSWER AND NEW MATTER**

The Defendant, Harvey J. Miller, through his attorney, Querino R. Torretti, Esquire, sets forth the following in way of an Answer And New Matter by averring:

1. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1. The same are therefore denied and strict proof thereof demanded.

2. Denied. On the contrary, the Defendant's address on July 16, 2002 was RD #4, Box 415, DuBois, PA 15801. As of December 5, 2003 to the present, Defendant's address has been 380 Log Road, Punxsutawney, PA 15767.

3. Admitted.

4. It is admitted that the Defendant lost some control of the buggy due to the horse being spooked by a jogger. It is denied that the loss of control was sudden and without warning. The horse being spooked was without warning and sudden. Once

the horse was spooked the Defendant acted in a reasonable and prudent manner to control the horse but was unable to fully control the horse. It is specifically denied that the horse crossed the centerline. It is specifically denied that the horse struck the Plaintiff's vehicle head-on. Rather it is averred that the horse moved towards/near the centerline and impacted with the front of the left side of the Plaintiff's vehicle.

5. Admitted.

6. It is admitted that the Defendant is the owner of the horse. It is specifically denied that he was the trainer of the horse. Furthermore, it is averred that the Defendant at all times relevant treated and cared for the horse in a reasonable and prudent manner. The horse had been trained prior to the Defendant purchasing the horse.

7. It is specifically denied that the collision was a head-on collision. Furthermore, it is specifically denied that Defendant's horse was propelled up over the hood of the truck and into the windshield of the Plaintiff's truck injuring the Plaintiff. On the contrary it is averred that the impact of the Plaintiff's vehicle and the horse took place at the front of the left side of the Plaintiff's vehicle.

8. Denied. It is specifically denied that the accident was a direct and proximate result of the negligence, carelessness

and recklessness of the Defendant. On the contrary, the Defendant, at all times relevant hereto, acted reasonably and prudently and with due care and caution and in no manner was negligent, careless, or reckless. Specifically, the Defendant acted with due care and caution and in a reasonable and prudent manner in assuring that the movement of the buggy could be made safely; in his efforts to abide by the Motor Vehicle Code and specifically Section 3301; in the manner in which he operated the brakes or other mechanisms of the vehicle so as to avoid the accident in question; in the manner in which he maintained his vehicle in a safe condition for its intended use; in attempting to keep his vehicle and horse under proper control; in being attentive to the surrounding circumstances and taking appropriate action to maintain control of the horse pulling his buggy; and relative to his efforts and work in learning how to use a horse and buggy. As to the allegation that the Defendant failed to sound a horn or other warning mechanisms to warn nearby motorists of any danger it is averred that Defendant's vehicle, namely the horse and buggy had no horn or other warning mechanisms. As to the allegation that Defendant failed to properly train the horse pulling the buggy so as to be "road worthy" it is averred that the horse had been trained prior to the Defendant purchasing the horse. It is further averred that the Defendant was reasonable and prudent in his care and

treatment of the horse as well as his handling of the horse in using it for transportation purposes in connection with the buggy, all of which was consistent with the training the horse had received to assure it being "road worthy".

9. Denied. It is specifically denied that the subject accident was in any way caused by the negligence, carelessness and recklessness of the Defendant, Harvey J. Miller. On the contrary, at all times relevant hereto, the Defendant, Harvey J. Miller, acted reasonably and prudently and with due care and caution. Furthermore, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 9 of Plaintiff's Complaint. The same are therefore denied and strict proof thereof demanded.

10. Denied. It is specifically denied that the subject accident was in any way caused by the negligence, carelessness and recklessness of the Defendant, Harvey J. Miller. On the contrary, at all times relevant hereto, the Defendant, Harvey J. Miller, acted reasonably and prudently and with due care and caution. Furthermore, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 10 of Plaintiff's Complaint. The same are therefore denied and strict proof thereof demanded.

11. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11. The same is therefore denied and strict proof thereof demanded.

WHEREFORE, Defendant requests that the Complaint of Plaintiff, Peter W. Frailey, be dismissed, with prejudice and costs of suit.

**NEW MATTER**

12. Defendant hereby asserts and raises all those defenses and/or limitations on damages available to him by reason of the terms or the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

13. To the extent Plaintiff's medical expenses were paid, or are payable, under a policy of insurance, including but not limited to any automobile insurance policy, the same may not be pled, proved, or recovered in the instant case.

14. To the extent Plaintiff's lost wages, if any, were paid, or are payable, under a policy of insurance, including but not limited to any automobile insurance policy, the same may not be pled, proved, or recovered in the instant case.

15. To the extent Plaintiff's miscellaneous expenses, including but not limited to expenses for mileage and/or property damage, are payable, under a policy of insurance, including but not limited to any automobile insurance policy,

the same may not be pled, proved, or recovered in the instant case.

16. To the extent Plaintiff was insured under a policy of insurance bearing the limited tort option, Plaintiff's claims are barred or reduced accordingly.

17. The horse in question had a mild, gentle disposition and had never exhibited any unsafe or vicious propensities in the past. Defendant had no actual or constructive knowledge of any unsafe or vicious propensities of the horse. Furthermore, Defendant had no actual or constructive knowledge that the horse was likely to break away from its normal domestic nature. On the contrary it is averred that during the approximate two and half months that the Defendant owned the horse prior to the accident date the horse had never exhibited any unsafe or vicious propensities and had never exhibited any behavior suggesting it would likely break away from its normal domestic nature.

18. The alleged harm caused by said horse is not the sort of harm that is normal for animals of its class to cause. The act of the horse becoming spooked and breaking away from its normal domestic nature was an act of God for which Defendant cannot be held liable.

19. Defendant used the horse to pull his buggy, which is a reasonable and customary use of a horse.

20. At the time of the accident which is the subject of the Plaintiff's Complaint, Defendant had exercised reasonable care and caution to confine and control the horse and took all reasonable precautions to protect the public.

21. The Plaintiff's case is barred by all applicable Statutes of Limitations.

22. The Plaintiff in his Complaint avers that the Defendant was negligent, careless, and reckless and this caused the accident in question.

23. At the time and place of his injuries, Plaintiff acted or failed to act in the following manner:

- (a) operated his vehicle in an inattentive manner;
- (b) failed to pay proper attention to the operation of his vehicle in disregard to the position and safety of others;
- (c) operated his vehicle in disregard to the position and safety of others;
- (d) failed to observe the traffic rules and regulations of the Commonwealth of Pennsylvania, including but not limited to: 75 Pa.C.S.A. §3361 Driving vehicle at safe speed; 75 Pa.C.S.A. §3301 Driving on right side of roadway; 75 Pa.C.S.A. §3714 Careless driving; and 75 Pa.C.S.A. §3736 Reckless driving;
- (e) failed to have his vehicle under control;
- (f) operated his vehicle at a speed greater than was reasonable under the circumstances;

(g) failed to have his vehicle under control so as to be able to stop within the assured clear distance ahead;

(h) traveled at an excessive or dangerous rate of speed under the circumstances then and there existing;

(i) failed to yield the right of way;

(j) failed to properly, appropriately or completely stop his vehicle;

(k) failed to keep a safe and careful lookout for other vehicles on the roadway;

(l) failed to observe the horse and buggy which was lawfully traveling on the highway;

(m) failed to avoid striking or colliding with the horse and buggy;

(n) failed to inspect, maintain and/or service the vehicle he was operating; and

(o) operated a vehicle in an unsafe or unfit mental or physical condition.

24. By the Plaintiff's foregoing actions and/or omissions, the Plaintiff exposed himself to a risk of harm of which he would have been aware had he used due care.

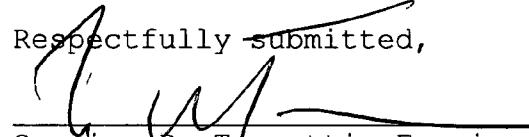
25. By his foregoing actions and/or omissions Plaintiff was contributorily negligent in that he failed to use and exercise reasonable and prudent care under the circumstances and as a

result caused and/or contributed to the aforesaid accident and his injuries.

26. Plaintiff's contributory negligence acts to bar and/or offset any recovery against Defendant.

WHEREFORE, Defendant requests that the Complaint of Plaintiff, Peter W. Frailey, be dismissed, with prejudice and costs of suit.

Respectfully submitted,

  
\_\_\_\_\_  
Querino R. Torretti, Esquire  
Attorney for Defendant

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF JEFFERSON

:

Harvey J. Miller, being duly sworn according to law deposes and says that the facts set forth in the foregoing Answer And New Matter are true and correct to the best of his knowledge, information, and belief.

*Harvey J. Miller*  
\_\_\_\_\_  
Harvey J. Miller

Sworn to an subscribed  
before me this 26<sup>th</sup> day

April, 2004.

*Jodi A. Anderson*  
\_\_\_\_\_  
Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Jodi A. Anderson, Notary Public  
Reynoldsville Boro, Jefferson County  
My Commission Expires Apr. 22, 2007

Member, Pennsylvania Association Of Notaries

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

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. :  
Harvey J. Miller, : No. 2004-00393-CD  
Defendant :  
:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 3, 2004, a true and correct copy of Defendant, Harvey J. Miller's Answer And New Matter regarding the above matter was served on the following via United State Mail, first class, postage pre-paid:

Attorney for Plaintiff  
Robert B. Woomer  
Attorney at Law  
3220 West Liberty Avenue  
Pittsburgh, PA 15216

  
Querino R. Torretti, Esquire

FILED  
MAY 11 2004  
06 2004  
Kb

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

**PLAINTIFF'S REPLY TO NEW  
MATTER**

HARVEY J. MILLER,

Filed on behalf of Plaintiff:  
Peter W. Frailey

Defendant.

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

**FILED**

**MAY 14 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

No. 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

**PLAINTIFF'S REPLY TO NEW MATTER**

COMES NOW, the Plaintiff, Peter W. Frailey, by and through his attorney of record, Robert B. Woomer, Esquire, and Woomer & Friday LLP, and files the following Reply to New Matter in accordance with Pennsylvania Rules of Civil Procedure:

1. In response to paragraph 12 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same.

2. In response to paragraph 13 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, on the contrary, avers that Plaintiff is entitled to recover all damages incurred herein.

3. In response to paragraph 14 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, on the contrary, avers that Plaintiff is entitled to recover all damages incurred herein.

4. In response to paragraph 15 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, on the contrary, avers that Plaintiff is entitled to recover all damages incurred herein.

5. In response to paragraph 16 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, on the contrary, avers that the vehicle involved in this matter is a commercial vehicle owned and insured through Plaintiff's employer and, therefore, full tort applies.

6. In response to paragraph 17 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and strict proof is demanded.

7. In response to paragraph 18 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies that an Act of God and not the actions and/or inactions of the Defendant caused the at-issue accident.

8. In response to paragraph 19 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff demands strict proof that it was a reasonable and customary use of the horse at-issue to pull the Defendant's buggy.

9. In response to paragraph 20 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same.

10. In response to paragraph 21 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, on the contrary, avers that all claims have been filed within the applicable Statute of Limitations and are not barred therefrom.

11. In response to paragraph 22 of Defendant's New Matter, Plaintiff admits the same.

12. In response to paragraph 23 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies each and every allegation contained in paragraph 23 and subparagraphs (a) through (o) and avers that Plaintiff's injuries and damages were a direct and proximate result of the actions and/on inactions of the Defendant as outlined in Plaintiff's complaint.

13. In response to paragraph 24 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, to the contrary, avers that no risk of harm existed.

14. In response to paragraph 25 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, to the contrary, avers that Plaintiff used all due care and acted in a reasonable and appropriate manner at all times and that Plaintiff's injuries and damages were a direct result of the actions and/or inactions of the Defendant.

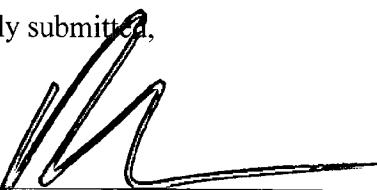
15. In response to paragraph 26 of Defendant's New Matter, said allegation is a conclusion of law for which no response is necessary. To the extent a response is required, Plaintiff denies the same and, to the contrary, avers that no contributory negligence existed on the part of the Plaintiff and Plaintiff is entitled to full and complete recovery for all damages and injuries sustained in the at-issue accident.

**CERTIFICATE OF SERVICE**

I hereby certify on the 12th day of May, 2004 that a true and correct copy of the foregoing *Plaintiff's Reply to New Matter* was served upon the following, by First Class U.S. mail, postage prepaid:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851

Respectfully submitted,

By: 

Robert B. Woomer, Esquire  
Attorney for Plaintiff  
PA I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

FILED NO  
MAY 15, 2004  
MAY 14 2004  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

FRAILEY, PETER W.

VS.

MILLER, HARVEY J.

**SUMMONS & COMPLAINT**

Sheriff Docket # 15367

04-393-CD

**SHERIFF RETURNS**

NOW MARCH 31, 2004 THOMAS DEMKO, SHERIFF OF JEFFERSON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS & COMPLAINT ON HARVEY J. MILLER, DEFENDANT.

NOW APRIL 8, 2004 SERVED THE WITHIN SUMMONS & COMPLAINT ON HARVEY J. MILLER, DEFENDANT BY DEPUTIZING THE SHERIFF OF JEFFERSON COUNTY. THE RETURN OF SHERIFF DEMKO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

---

**Return Costs**

Cost	Description
27.74	SHERIFF HAWKINS PAID BY: ATTY CK# 22202
10.00	SURCHARGE PAID BY: ATTY CK# 22203
33.64	JEFFERSON CO. SHFF. PAID BY: ATTY.

---

Sworn to Before Me This

17 Day of May 2004  
William A. Shaw

So Answers,

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

**FILED**

0 1:30 PM  
MAY 17 2004 *WA*  
*WAB*

William A. Shaw  
Prothonotary

No. 2004-00393-CD

Personally appeared before me, Carl J. Gotwold, Sr., Deputy for Thomas A. Demko, Sheriff of Jefferson County, Pennsylvania, who according to law deposes and says that on April 8, 2004 at 10:25 o'clock A.M. served the Summons, Notice and Complaint upon HARVEY J. MILLER, Defendant, at SR 410 & T.R. 608, Punxsutawney, Township of Henderson, County of Jefferson, State of Pennsylvania, by handing to Harvey, personally, a true copy of the Summons, Notice and Complaint and by making known to him the contents thereof.

Advance Costs Received:	\$125.00
My Costs:	\$ 31.64 Paid
Prothy:	\$ 2.00
Total Costs:	\$ 33.64
Refunded:	\$ 91.36

Sworn and subscribed  
to before me this 16th  
day of April 2004  
By Carly J. Gotwold Sr.

My Commission Expires The  
First Monday January 2006

So Answers,

Carl J. Gotwold Sr. Deputy  
Carl J. Gotwold Sr. Sheriff  
JEFFERSON COUNTY, PENNSYLVANIA

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

Peter W. Frailey,

Plaintiff

vs.

Harvey J. Miller,

Defendant

:  
: CIVIL DIVISION  
: No. 2004-00393-CD  
:  
: Type of Pleading:  
: Notice Of Service Of  
: Answers To Plaintiff's  
: First Set Of Interrogatories  
: And Request For Production  
: Of Documents Directed To  
: Defendant, Harvey J. Miller  
:  
: Filed on Behalf of:  
: Defendant  
:  
:  
: Counsel of Record for  
: Defendant  
: Querino R. Torretti,  
: Esquire  
: Supreme Court I.D.  
: No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243

FILED

JUN 09 2004

William A. Shaw  
Prothonotary/Clerk of Courts

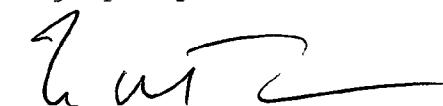
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. :  
Harvey J. Miller, : No. 2004-00393-CD  
Defendant :  
:

**NOTICE OF SERVICE OF ANSWERS TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT, HARVEY J. MILLER**

To: WILLIAM SHAW, SR., PROTHONOTARY

PLEASE TAKE NOTICE that Defendant, Harvey J. Miller, has served  
Answers To Plaintiff's First Set Of Interrogatories And Request For  
Production Of Documents Directed To Defendant, Harvey J. Miller, by  
mailing the same to his attorney, Robert B. Woomer, Woomer & Friday  
LLP, 3220 West Liberty Avenue, Suite 200, Pittsburgh, PA 15216-2320,  
via United States Mail, first class, postage pre-paid.

  
\_\_\_\_\_  
Querino R. Torretti,  
Attorney for Plaintiff

DATED: June 7, 2004

FILED NO  
3/12/04  
JUN 09 2004  
RS

William A. Shaw  
Prothonotary/Clerk of Courts

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

Peter W. Frailey,

Plaintiff

vs.

Harvey J. Miller,

Defendant

:  
: CIVIL DIVISION  
: No. 2004-00393-CD  
:  
: Type of Pleading:  
: Notice Of Service Of  
: Defendant's First Set Of  
: Interrogatories To  
: Plaintiff and  
: Defendant's Request  
: For Production Of  
: Documents Directed To  
: Plaintiff  
:  
: Filed on Behalf of:  
: Defendant  
:  
:  
: Counsel of Record for  
: Defendant  
: Querino R. Torretti,  
: Esquire  
: Supreme Court I.D.  
: No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243

FILED

JUN 09 2004

William A. Shaw  
Prothonotary/Clerk of Courts

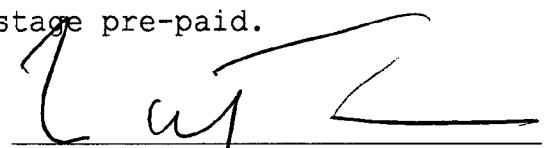
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. :  
Harvey J. Miller, : No. 2004-00393-CD  
Defendant :  
:

**NOTICE OF SERVICE OF DEFENDANT'S FIRST SET  
OF INTERROGATORIES TO PLAINTIFF and REQUEST FOR  
PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**

To: WILLIAM SHAW, SR., PROTHONOTARY

PLEASE TAKE NOTICE that Defendant, Harvey J. Miller, has served Defendant's First Set Of Interrogatories To Plaintiff and Request For Production Of Documents Directed To Plaintiff, Peter W. Frailey, by mailing the same to his attorney, Robert B. Woomer, Woomer & Friday LLP, 3220 West Liberty Avenue, Suite 200, Pittsburgh, PA 15216-2320, via United States Mail, first class, postage pre-paid.

  
Querino R. Torretti,  
Attorney for Plaintiff

DATED: June 7, 2004

FILED  
MAY 20 2004  
JUN 09 2004  
cc  
EKA

William A. Shaw  
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendants.

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation t/d/b/a  
PENNS VALLEY LIVESTOCK  
AUCTION; and NOAH HOSTETLER,

Defendants.

CIVIL DIVISION

Docket No.: 2004 - 00393 - CD

Docket No. 2004 - 01076 - CD

**PLAINTIFF'S MOTION TO  
CONSOLIDATE**

Filed on behalf of Plaintiff:

Peter W. Frailey

Counsel of Record for this Party:

Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

*W.A.S.*  
FILED NOV 10 2004  
AUG 18 2004  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

vs.

Plaintiff,

Docket No. : 2004 - 00393 - CD

HARVEY J. MILLER,

Defendants.

---

PETER W. FRAILEY,

Case No. 2004 - 01076 - CD

vs.

Plaintiff,

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**PLAINTIFF'S MOTION TO CONSOLIDATE**

AND NOW, comes Plaintiff, Peter W. Frailey, by and through his attorneys, Robert B. Woomer, Esquire, and Woomer & Friday LLP, and files this Motion to Consolidate as follows:

1. The above cause of action was instituted by a Complaint in Civil Action being filed with the above-mentioned Court against Defendant Harvey J. Miller (hereinafter "Miller") on March 22, 2004.

2. On or about May 4, 2004, Plaintiff received Miller's Answer to Complaint, wherein Miller alleged that parties other than himself trained the horse in question.

3. On May 4, 2004, based upon Miller's Answer to Complaint, Plaintiff served Interrogatories on Miller, requesting, among other things, specific information regarding prior owners and trainers of the horse in question.

4. On or about June 9, 2004 Plaintiff received Miller's answers to Plaintiff's Interrogatories, wherein Miller alleged that additional parties may be liable for Plaintiff's injuries and damages.

5. On or about June 23, 2004 Plaintiff received additional information from Miller, wherein the additional parties responsible for the horse and the training of the horse prior to Miller purchasing the horse were positively identified.

6. On July 15, 2004 Plaintiff instituted a cause of action against Defendants Darlene R. Bierly, Penns Valley Livestock Auction, Inc., t/d/b/a Penns Valley Livestock Auction and Noah Hostetler, the additional parties identified by Miller, by filing a Complaint in Civil action against said parties with the above-mentioned Court on July 15, 2004.

7. These two causes of action should be consolidated as there are common questions of law and fact that are predominating and significant to the litigation, as well as to the nature and cause of Plaintiff's injuries and damages.

8. By consolidating the two causes of action, duplicative discovery will be avoided, judicial resources will be more effectively utilized, and duplicative and inconsistent rulings and/or verdicts will be avoided.

9. Consolidating the two causes of action will not result in the litigation being delayed and will not prejudice the interests of any party.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY

CIVIL DIVISION

Plaintiff,  
vs.

Docket No. : 2004 - 00393 - CD

HARVEY J. MILLER

---

PETER W. FRAILEY,

Docket No. : 2004 - 01076 - CD

Plaintiff,  
vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2004 upon Motion of the  
Plaintiff, it is hereby . . .

ODERED ADJUDGED AND DECREED that the above-captioned causes of action shall  
be consolidated for purposes of trial under Docket Case No. 2004-00393-CD and the  
Prothonotary is hereby directed to mark the docket accordingly.

BY THE COURT:

---

J.

**CERTIFICATE OF SERVICE**

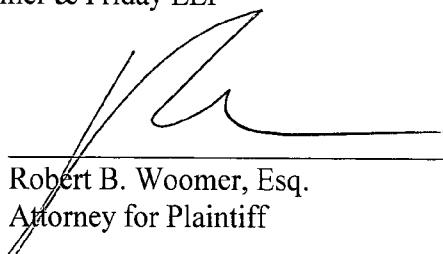
I hereby certify that on August 6, 2004, a true and correct copy of the foregoing ***Motion to Consolidate*** was served by First Class U.S. Mail, postage prepaid, upon the following:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

Woomer & Friday LLP

By: 

Robert B. Woomer, Esq.  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendants.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation t/d/b/a  
PENNS VALLEY LIVESTOCK  
AUCTION; and NOAH HOSTETLER,

Defendants.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

Docket No. 2004 - 01076 - CD

**PRAECIPE TO REQUEST  
ARGUMENT/HEARING**

Filed on behalf of Plaintiff:

Peter W. Frailey

Counsel of Record for this Party:

Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

FILED  
m/2/2004  
AUG 18 2004  
cc

W/ William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendants.

---

PETER W. FRAILEY,

Case No. 2004 - 01076 - CD

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation t/d/b/a  
PENNS VALLEY LIVESTOCK  
AUCTION; and NOAH HOSTETLER,

Defendants.

**PRAECIPE TO REQUEST ARGUMENT/HEARING**

Please place the Motion to Consolidate, filed on behalf of the Plaintiff, on the next  
argument list.

Respectfully submitted August 6, 2004.

Woomer & Friday LLP



\_\_\_\_\_  
Robert B. Woomer, Esq.  
Pa.I.D. # 59030  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

- Docket No. 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendants.

---

PETER W. FRAILEY,

Case No. 2004 - 01076 - CD

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation t/d/b/a  
PENNS VALLEY LIVESTOCK  
AUCTION; and NOAH HOSTETLER,

Defendants.

FILED

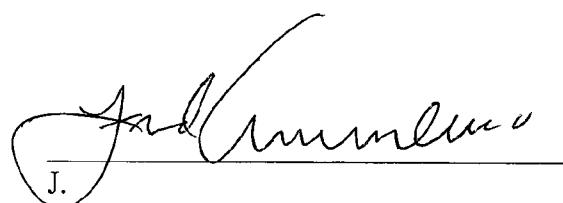
AUG 25 2004

William A. Shaw  
Prothonotary/Clerk of Courts

**RULE TO SHOW CAUSE**

NOW THIS 24 day of August, 2004, a Rule is  
hereby issued upon the Defendants, Harvey J. Miller, Darlene R. Bierly, Penns Valley  
Livestock Auction, Inc., and Noah Hostetler, to show cause, if any they have, why the  
Motion to Consolidate should not be granted.

Said Rule Returnable the 22 day of September, 2004 at  
1:30 o'clock P.m., Courtroom No. 1, Clearfield County  
Courthouse, Clearfield, Pennsylvania.

  
J.

FILED *et al*  
0185760  
AUG 25 2004  
(see copy attached)

cc: Amy Woerner  
w/memo re: Service of Rule  
William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

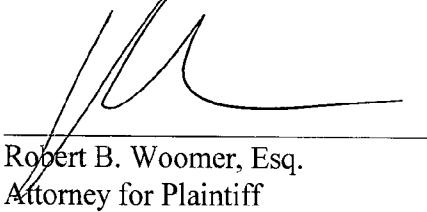
I hereby certify that on August 6, 2004, a true and correct copy of the foregoing  
*Praeclipe to Request Argument/Hearing* was served by First Class U.S. Mail, postage  
prepaid, upon the following:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

Woomer & Friday LLP

By: 

Robert B. Woomer, Esq.  
Attorney for Plaintiff



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE  
230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-6089

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

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

Peter W. Frailey,

Plaintiff

:  
: CIVIL DIVISION  
: No. 2004-00393-CD  
:  
: No. 2004-01076-CD  
:  
: Type of Pleading:  
: Defendant Harvey J. Miller's  
: Answer TO Plaintiff's  
: Motion To Consolidate

vs.

Harvey J. Miller,

Defendant

: Filed on Behalf of:  
: Defendant, Harvey J.  
: Miller

vs.

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation  
t/d/b/a PENNS VALLEY LIVESTOCK  
AUCTION, and NOAH HOSTETLER,

Defendants

: Counsel of Record for  
: Defendant  
: Querino R. Torretti,  
: Esquire  
: Supreme Court I.D.  
: No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243  
:

FILED

8/8  
AUG 23 2004  
m/j:sgofws  
William A. Shaw  
Prothonotary/Clerk of Courts

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

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. : No. 2004-00393-CD  
Harvey J. Miller, :  
Defendant :  
vs. :  
DARLENE R. BIERLY, PENNS :  
VALLEY LIVESTOCK AUCTION, :  
INC., a Pennsylvania Corporation :  
t/d/b/a PENNS VALLEY LIVESTOCK :  
AUCTION, and NOAH HOSTETLER, :  
Defendants :  
:

**DEFENDANT HARVEY J. MILLER'S ANSWER**  
**TO MOTION TO CONSOLIDATE**

AND NOW, comes Harvey J. Miller, Defendant by and through his attorney, Querino R. Torretti, Esquire and sets forth the following Answer To Plaintiff's Motion To Consolidate:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.

7. It is denied that the two causes of action should be consolidated. On the contrary, the basis of liability for the Defendant, Harvey J. Miller, depends on facts clearly distinct from the facts relevant to the issue of the liability of the Defendants, Darlene R. Bierly, Penns Valley Livestock Auction, Inc., a Pennsylvania Corporation t/d/b/a Penns Valley Livestock Auction and Noah Hostetler. Furthermore, the law applicable to Defendant, Harvey J. Miller's liability is different from the law which applies to the liability of the Defendants in the separate action. Clearly there are no common questions of law and fact applicable to the liability issue in the two causes of action.

8. It is denied that duplicative discovery would be avoided inasmuch as the discovery which has been sought from defendant, Harvey J. Miller is distinct from the discovery being sought from the Defendants in the other action.

9. It is specifically denied that consolidating the two causes of action will not result in the litigation being delayed and will not prejudice the interest of any party. On the contrary, the cause of action against the Defendant, Harvey J. Miller at Number 2004 - 00393 - CD is clearly distinct from the cause of action against the Defendants in this suit at 2004 -0 01076 - CD. The work involved in pursuing each cause of action will clearly tend to delay the progress of the separate action.

WHEREFORE, Defendant Harvey J. Miller, requests Your Honorable Court to dismiss the Plaintiff, Peter W. Frailey's Motion To Consolidate.

Attn: Querino R. Torretti  
Querino R. Torretti, Esquire  
Attorney for Defendant

Dated: August 20, 2004

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 29, 2004 a true and correct copy of Defendant Harvey J. Miller's Answer To Motion To Consolidate regarding the above matter was served on the following via United State Mail, first class, postage prepaid:

Attorney for Plaintiff

Robert B. Woomer  
Woomer & Friday, LLP  
3220 West Liberty Avenue  
Pittsburgh, PA 15216

Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

James N. Bryant, Esq.  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street, Po Box 551  
Millheim, PA 16854

Attorney for Noah Hostetler

Lori Hackenberg, Esq.  
Law Office of Michael H. Sholley, Esq.  
41 South Main Street  
Middleburg, PA 17842

*Attn: Darlene R. Bryant*  
Querino R. Torretti, Esquire

LAW OFFICES

*Querino R. Torretti*

Mary L Pothoven  
Associate

ATTORNEY AT LAW  
600 E. MAIN STREET  
P. O. Box 218  
REYNOLDSVILLE, PENNSYLVANIA 15851

TELEPHONE  
814-653-2243

FAX  
814-653-8319

August 20, 2004

William Shaw,  
Prothonotary  
Courthouse  
1 North Second Street  
Clearfield, PA 15830

Re: Frailey vs. Miller  
No. 2004-00390-CD  
No. 2004-01076-CD

Dear Mr. Shaw:

Please note herein enclosed the original and one copy of the Defendant Harvey J. Miller's Answer To Motion To Consolidate and Certificate of Service regarding the above-indicated matter. Kindly file the original, conform the copy and return the copy to me in the stamped, self-addressed envelope herein enclosed. Should you have any questions or need anything further please advise.

*WOS/ALS/R*

*Cordially yours,*

*Querino R. Torretti*

PJB/pjb  
Encls.  
CC: Robert B. Woomer, Esq.  
Lori Hackenberg, Esq.  
James N. Bryant, Esq.

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

Peter W. Frailey,

Plaintiff

: CIVIL DIVISION  
: No. 2004-00393-CD  
:  
: No. 2004-01076-CD  
:  
: Type of Pleading:  
: Defendant Harvey J. Miller's  
: Answer To Plaintiff's  
: Motion To Consolidate

vs.  
Harvey J. Miller,

Defendant

: Filed on Behalf of:  
: Defendant, Harvey J.  
: Miller

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation  
t/d/b/a PENNS VALLEY LIVESTOCK  
AUCTION, and NOAH HOSTETLER,

Defendants

: Counsel of Record for  
: Defendant  
: Querino R. Torretti,  
: Esquire  
: Supreme Court I.D.  
: No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243  
:  
:

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

AUG 23 2004

Attest.

*[Signature]*  
Prothonotary  
Clerk of Courts

Attest.  
Clerk of Courts  
Prothonotary  
Court Clerk

AUG 23 2004

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

Petitioner vs. Peter W. Frailey, Plaintiff  
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
No. 2004-00393-CD  
No. 2004-01076-CD  
Type of pleading:  
Defendant Harvey J. Miller's  
Answer To Plaintiff's  
Motion To Consolidate  
Filed on Behalf of:  
Defendant  
Querino R. Torretti,  
Esquire  
Supreme Court I.D.  
No. 23996  
600 East Main Street  
P.O. Box 218  
Reynoldsdale, PA 15851  
(814) 653-2243  
Defendants  
DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation  
t/a/b/a PENNS VALLEY LIVESTOCK  
AUCTION, and NOAH HOSTELLER,  
vs.  
Defendant  
Harvey J. Miller,  
vs.  
Defendant  
Miller

DARLENE R. BIERLY, PENNS  
VALLEY LIVESTOCK AUCTION,  
INC., a Pennsylvania Corporation  
t/a/b/a PENNS VALLEY LIVESTOCK  
AUCTION, and NOAH HOSTELLER,  
vs.  
Defendant

Defendant

Harvey J. Miller,

vs.

Peter W. Frailey,

Plaintiff

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

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

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. : No. 2004-00393-CD  
Harvey J. Miller, :  
Defendant :  
vs. :  
DARLENE R. BIERLY, PENNS :  
VALLEY LIVESTOCK AUCTION, :  
INC., a Pennsylvania Corporation :  
t/d/b/a PENNS VALLEY LIVESTOCK :  
AUCTION, and NOAH HOSTETLER, :  
Defendants :

**DEFENDANT HARVEY J. MILLER'S ANSWER**  
**TO MOTION TO CONSOLIDATE**

AND NOW, comes Harvey J. Miller, Defendant by and through his attorney, Querino R. Torretti, Esquire and sets forth the following Answer To Plaintiff's Motion To Consolidate:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 26, 2004 a true and correct copy of Defendant Harvey J. Miller's Answer To Motion To Consolidate regarding the above matter was served on the following via United State Mail, first class, postage prepaid:

Attorney for Plaintiff

Robert B. Woomer  
Woomer & Friday, LLP  
3220 West Liberty Avenue  
Pittsburgh, PA 15216

Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

James N. Bryant, Esq.  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street, Po Box 551  
Millheim, PA 16854

Attorney for Noah Hostetler

Lori Hackenberg, Esq.  
Law Office of Michael H. Sholley, Esq.  
41 South Main Street  
Middleburg, PA 17842

*Attn: Querino R. Torretti*  
Querino R. Torretti, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

Docket No. 2004 - 01076 - CD

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**CERTIFICATE OF SERVICE OF  
PLAINTIFF'S MOTION TO  
CONSOLIDATE AND RULE TO SHOW  
CAUSE**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**FILED**

**JURY TRIAL DEMANDED**

SEP 07 2004

~1:15~

William A. Shaw  
Prothonotary  
no 6/6

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

Case No. 2004 - 01076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on august 27, 2004 a true and correct copy  
of Plaintiff's Motion to Consolidate and certified copies of the Rule to Show Cause was  
served by first class U.S. mail, postage prepaid, upon Defendant's counsel, to-wit:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

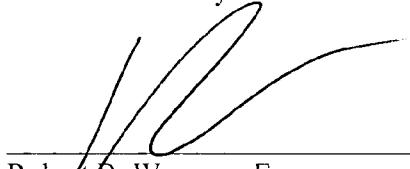
James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

2004 - 00393 - CD  
2004 - 01076 - CD

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
**Attorney for Noah Hostetler**

Court Administrator's Office  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830

Woomer & Friday LLP



\_\_\_\_\_  
Robert B. Woomer, Esq.  
Pa. # 59030  
Attorney for Plaintiff

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendant.

CIVIL DIVISION

Docket No.: 2004 - 00393 - CD

Code No.:

**NOTICE OF SERVICE OF PLAINTIFF'S  
ANSWERS TO DEFENDANT MILLER'S  
INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

Filed on behalf of Plaintiff:  
PETER W. FRAILEY

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

FILED *No*  
*11/3/04*  
cc  
SEP 21 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

NOTICE OF SERVICE

I hereby certify that on September 17, 2004 a true and correct copy of **Plaintiff's** *Answers to Defendant Miller's Interrogatories and Request for Production of Documents* was served by first class U.S. mail, postage prepaid, upon Defendant's counsel, to-wit:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Woomer & Friday LLP

\_\_\_\_\_  
Robert B. Woomer, Esquire  
Pa I.D. # 59030  
Attorney for Plaintiff

Woomer & Friday LLP  
3220 West Liberty Avenue, Suite 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

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

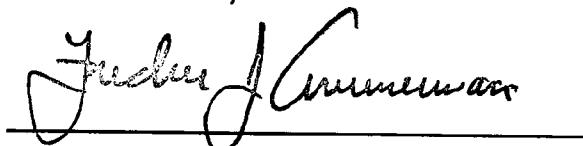
PETER W. FRAILEY :  
-vs- : No. 04-393-CD  
HARVEY J. MILLER :

O R D E R

NOW, this 22nd day of September, 2004, following argument relative the Motion to Consolidate, it is the ORDER of this Court as follows:

1. There being no objection to the Plaintiffs' Motion to Consolidate, it is therefore the ORDER of this Court that the said Motion be and is hereby granted and the above-captioned case consolidated with No. 04-1076-CD;
2. Counsel shall have no more than twenty (20) days from this date in which to submit letter brief to the Court relative the Defendant's Preliminary Objections as aforesaid;
3. All future filings shall be to case no. 04-393-CD.

BY THE COURT,



President Judge

CA  
EOK  
FILED

01/14/04  
SEP 24 2004

William A. Shaw  
Prothonotary/Clerk of Courts  
cc: Atty's: Woerner,  
Torreth

(A)

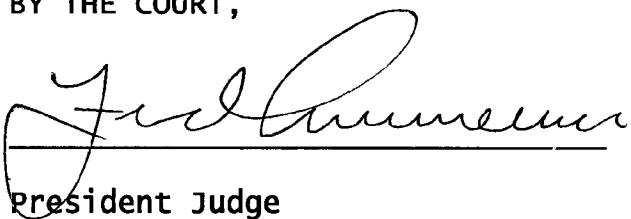
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

PETER W. FRAILEY :  
-vs- : No. 04-393-CD  
HARVEY J. MILLER, et al. :

ORDER

NOW, this 22nd day of October, 2004, the Court being in receipt of briefs relative the Preliminary Objections of Defendants Darlene R. Bierly and Penns Valley Livestock Auction, Inc. in the above-captioned case; upon consideration of the same, it is the ORDER of this Court that said Preliminary Objections be and are hereby dismissed. The Court notes that nothing in this Order is to be construed as preventing the Defendants from raising similar issue(s) in a motion for summary judgment following further Discovery.

BY THE COURT,

  
\_\_\_\_\_  
President Judge

1/12/05  
FAXED COPY TO  
ATTY J. BRYANT

D. FOLMAR

FILED <sup>2cc</sup>  
01/11/08 B&L Atlys  
OCT 25 2004 Woerner,  
Torrethi

William A. Shry  
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendant.

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Additional Defendants.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

**NOTICE OF SERVICE OF NOTICE OF  
DEPOSITION OF DARLENE R. BIERLY**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel for Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

FILED NO  
6K M/12/2004  
DEC 27 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, et al.,

Additional Defendants.

**NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF  
DARLENE R. BIERLY**

I hereby certify on December 23, 2004, that a true and correct copy of the foregoing *Notice of Deposition of Darlene R. Bierly* was served upon the following, by First Class U.S. mail, postage prepaid:

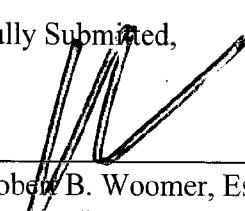
Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns  
Valley Livestock Auction, Inc.

Respectfully Submitted,

By:

  
Robert B. Woomer, Esquire  
PA #D. # 59030  
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Additional Defendants.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

**NOTICE OF SERVICE OF NOTICE OF  
DEPOSITION OF HARVEY J. MILLER**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel for Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

6K m/1:23B/1  
FILED NO  
DEC 27 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, et al.,

Additional Defendants.

**NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF  
HARVEY J. MILLER**

I hereby certify on December 23, 2004, that a true and correct copy of the foregoing *Notice of Deposition of Harvey J. Miller* was served upon the following, by First Class U.S. mail, postage prepaid:

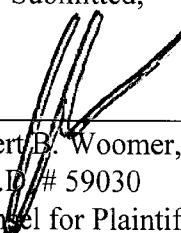
Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns  
Valley Livestock Auction, Inc.

Respectfully Submitted,

By:

  
Robert B. Woomer, Esquire  
PA I.D. # 59030  
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Additional Defendants.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

**NOTICE OF SERVICE OF NOTICE OF  
DEPOSITION OF NOAH HOSTETLER**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel for Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

64<sup>th</sup> FILED NO  
M 11/23/04  
DEC 27 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

vs.

Docket No. : 2004 - 00393 - CD

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, et al.,

Additional Defendants.

**NOTICE OF SERVICE OF NOTICE OF DEPOSITION OF  
NOAH HOSTETLER**

I hereby certify on December 23, 2004, that a true and correct copy of the foregoing *Notice of Deposition of Noah Hostetler* was served upon the following, by First Class U.S. mail, postage prepaid:

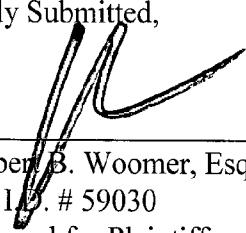
Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns  
Valley Livestock Auction, Inc.

Respectfully Submitted,

By:

  
\_\_\_\_\_  
Robert B. Woomer, Esquire  
PA I.D. # 59030  
Counsel for Plaintiff

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

Peter W. Frailey,

Plaintiff

:  
: CIVIL DIVISION  
: No. 2004-00393-CD

s.

Harvey J. Miller,

Defendant

:  
: Type of Pleading: Notice  
: Of Service Of Deposition  
: Of Peter W. Frailey  
:  
: Filed on Behalf of:  
: Defendant, Harvey J.  
: Miller

vs.

Darlene R. Bierly, Penns  
Valley Livestock Auction,  
Inc., a Pennsylvania Corporation  
t/d/b/a Penns Valley Livestock  
Auction, and Noah Hostetler,

Defendants

:  
: Counsel of Record for Defendant  
: Querino R. Torretti, Esquire  
: Supreme Court I.D. No. 23996  
: 600 East Main Street  
: P.O. Box 218  
: Reynoldsville, PA 15851  
: (814) 653-2243  
:  
:  
:

FILED  
6<sup>th</sup> JAN 07 2005  
11:44:51  
NOCC

William A. Shaw  
Prothonotary/Clerk of Courts

• 5-7

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

Peter W. Frailey, :  
Plaintiff : CIVIL DIVISION  
vs. : No. 2004-00393-CD  
Harvey J. Miller, :  
Defendant :  
vs. :  
Darlene R. Bierly, Penns :  
Valley Livestock Auction, :  
Inc., a Pennsylvania Corporation :  
t/d/b/a Penns Valley Livestock :  
Auction, and Noah Hostetler, :  
Defendants :  
:

NOTICE OF SERVICE OF NOTICE OF DEPOSITION  
OF PETER W. FRAILEY

I hereby certify on January 6, 2005, that a true and correct copy of the foregoing Notice of Deposition of Peter W. Frailey was served upon the following, by First Class U.S. mail, postage prepaid:

Robert B. Woomer, Esquire  
Law Office of Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
Attorney for Plaintiff, Peter W. Frailey

James N. Bryant, Esquire  
Law Office of Bryant & Cantorna, P.C.  
PO Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and  
Penns Valley Livestock Action, Inc.

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

  
Quenino R. Torretti, Esquire  
Attorney for Defendant  
PA I.D. #23996

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No.: 2004 - 00393 - CD

vs.

Code No.:

HARVEY J. MILLER,

Defendant,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANTS  
DARLENE R. BIERLY AND PENNS  
VALLEY LIVESTOCK AUCTION**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Suite 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

64 **FILED** *WAC*  
*1/11/05*  
JAN 12 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANTS DARLENE R. BIERLY AND PENNS VALLEY  
LIVESTOCK AUCTION**

I hereby certify that on January 10, 2005 an original set of *Plaintiff's*  
*Interrogatories and Request for Production of Documents Directed to Defendant* were  
served by first class U.S. mail, postage prepaid, upon Defendant's counsel, to-wit:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

Woomer & Friday LLP

---

Robert B. Woomer, Esquire  
Pa I.D. # 59030  
Attorney for Plaintiff

Woomer & Friday LLP  
3220 West Liberty Avenue, Suite 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No.: 2004 - 00393 - CD

vs.

Code No.:

HARVEY J. MILLER,

Defendant,

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO NOAH HOSTETLER**

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Robert B. Woomer, Esquire  
Pa I.D. # 59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Suite 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

**JURY TRIAL DEMANDED**

FILED  
64 M 1:17 AM NO  
JAN 12 2005  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT NOAH HOSTETLER**

I hereby certify that on January 10, 2005 an original set of *Plaintiff's* *Interrogatories and Request for Production of Documents Directed to Defendant* were served by first class U.S. mail, postage prepaid, upon Defendant's counsel, to-wit:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street  
P.O. Box 551  
Millheim, PA 16854  
Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

Woomer & Friday LLP

Robert B. Woomer, Esquire  
Pa I.D. # 59030  
Attorney for Plaintiff

Woomer & Friday LLP  
3220 West Liberty Avenue, Suite 200  
Pittsburgh, PA 15216-2320  
(412)563-7980

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER ,

Defendant,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**DEFENDANTS' ANSWERS TO PLAINTIFF'S INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS DARLENE R.  
BIERLY AND PENNS VALLEY LIVESTOCK AUCTION**

FILED <sup>64</sup>  
NO. <sup>CC</sup>  
M 1/16/05  
JAN 3 12005

William A. Shaw  
Prothonotary/Clerk of Courts

Plaintiff, by and through his attorneys, Robert B. Woomer and Woomer & Friday LLP, hereby demand that defendants, Darlene R. Bierly and Penns Valley Livestock Auction (hereinafter referred to as "Defendant") answer the following Interrogatories and Request for Production of Documents under oath, pursuant to the applicable Rules of Civil Procedure, within thirty (30) days from service thereof. These Interrogatories shall be deemed continuing so as to require supplemental answers if affiant, or anyone on his behalf, obtains further information between the time the answers are served and the time of trial. If more than one defendant is named, please answer separately for each defendant.

Instructions:

**INSTRUCTIONS**

In accordance with Pa. R.C.P. 4006, written answers shall be inserted in the spaces provided in the Interrogatories. If there is insufficient space to answer an Interrogatory, the remainder of the answer shall follow on a supplemental sheet.

With respect to each of the following requests, you shall identify and/or produce all documents which are known to you or which can be located or discovered by you through diligent effort on the part of you, your employees, representatives, attorneys, or accountants, including but not limited to all documents which are in the business or personal files of your employees, in the possession of your representatives, attorneys, or accountants, or accessible to you, your employees, or your representatives, attorneys or accountants.

In accordance with Pa. R.C.P. 4006(b) where the answers to an Interrogatory may be derived or ascertained from the records of the party upon whom the Interrogatory has been served or from an examination, audit or inspection of the party's records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer would be

substantially the same for the party serving the Interrogatory as for the party served, a sufficient answer to such an Interrogatory shall be to specify the records from which an answer may be derived or ascertained and to afford the party serving the Interrogatory reasonable opportunity to examine, audit or inspect those records and to make copies, compilations, abstracts, or summaries, provided that a copy of any compilations, abstracts or summaries so made shall forthwith be furnished to the party producing the records.

If any documents requested herein or fairly comprised within the scope of the following requests have been lost or destroyed, you shall provide in lieu of a true and correct copy thereto a list of each document so lost or destroyed together with the following information: (a) the date of origin; (b) a brief description of such document; (c) the author of the document; (d) the date upon which the document was lost or destroyed; and (e) a brief statement of the manner in which the document was lost or destroyed.

Definitions:

For the purposes of these Interrogatories, the following definitions shall apply:

1. The words "you" or "your" shall mean defendant as well as your agents, attorneys, accountants, consultants, independent contractors and any other individual or entity associated or affiliated with defendant or purporting to act on defendant's behalf with respect to the matter in question.

1. "Communication" means any transmission of thought, opinion or information by speech, writing, signs, symbols or electronic medium.

2. The word "document" as used herein shall be understood to mean all written, graphic or otherwise recorded matter, however produced or reproduced, in the actual or constructive possession, custody, care or control of defendant, his officers, agents, employees and attorneys, or any of them, including but not limited to originals and all copies of correspondence, tapes, disks, microfilms, photographs, telegrams, notes, sound recordings, minutes of director's meetings and of committee meetings, minutes of all other types of meetings, memoranda of all types, inter-office communications, reports, contracts, licenses, agreements, ledgers, books of account, vouchers, bank checks, invoices, purchase orders, charge slips, hotel charges, copies of tax returns and tax reports, receipts, freight bills, working papers, computer printouts, statistical records, desk calendars, diaries, time sheets and logs, job matter and transaction files, ad any papers or recordings similar thereto.

3. "Identify" or "identification" when used in reference to an individual person means to state his name, present or last known address, present or last known position and business affiliation and his position and business affiliations at all times during the period covered by the Complaint.

4. "Describe" or "identify" when used in reference to a document means to state the type of document (for example, letter, memorandum, telegram, chart, etc.), the date, author, addresses, title, file and identifying number and symbol and the name and address of its custodian. If any such documents are no longer in your possession or subject to your control, state what disposition was made of it and the date thereof.

5. When used herein, "the date of the incident complained of" shall refer to those dates set forth in Plaintiff's Complaint.

6. When used herein the term "animal, subject animal or at-issue animal" shall refer to the animal referred to in Plaintiff's Complaint filed in this action.

### **Claims of Privilege**

Any document that is withheld on the grounds that it is privileged or that it constitutes an attorney work animal or for any reason, shall be identified by stating:

1. The type of document;
2. The date of the document;
3. The name and address of the author of the document;
4. The name and address of each recipient of the document;
5. The general subject matter of the document;
6. The name and address of the custodian of the document and the designation of the file(s) in which the document is located;
7. The precise basis on which the document is being withheld.

### **Scope of Request**

This request for production of documents is deemed to be continuing to the fullest extent provided in Rule 4003.1 of the Pennsylvania Rules of Civil Procedure.

## **INTERROGATORIES**

1. Please state the full name, address and title of any and all persons involved in answering these interrogatories.

**ANSWER:**

David Bierly and Darlene R. Bierly  
2627 Earlystown Road  
Centre Hall, PA 16828

2. Please state how you are organized (e.g. corporation, partnership, non-profit organization, association, joint-venture, etc.)

**ANSWER:**

Corporation – Darlene Bierly as an individual

3. If you are a corporation, please state:

- a. the date of incorporation;
- b. the state of incorporation;
- c. the full name of the corporation;
- d. the address of the principle office of such corporation;
- e. the name and address of each officer of such corporation at the present;
- f. the name and address of each officer of such corporation at the time of the at-issue incident;
- g. the name and address of the parent corporation and any subsidiaries or franchises; and
- h. whether you are known, manufacture, distribute or conduct business by any other name, trade name, identity, logo or aliases;

If a partnership, state:

- (a) partnership name;
- (b) type of partnership, general or limited;
- (c) name and address of all partners, and, if a limited partnership, specify which partners act as general partners;
- (d) partnership address; and
- (e) state and county of partnership's registration.

**ANSWER:**

- A. 1983
- B. Pennsylvania
- C. Jersey Shore Livestock, Inc., d/b/a Penns Valley Market
- D. Centre Hall, Pennsylvania
- E. David Bierly - President

Darlene Bierly – Vice President/Secretary/Treasurer

- F. Same
- G. None
- H. None

4. Please state the names of all industry associations of which defendant is a member.

**ANSWER:**

None

5. If known to you, your attorneys or other representatives, set forth the name, home address and business address of the following persons:

- (a) those who have any knowledge or any facts pertaining to the cause of the accident or acts of negligence alleged in plaintiffs' complaint; and
- (b) all other witnesses upon whom you will rely in defending the issue of liability in this case.

**ANSWER:**

None

6. Please state whether you have taken or obtained any written or recorded statements with respect to this lawsuit.

**ANSWER:**

None

7. If the answer to the previous Interrogatory was in the affirmative, please state the following:

- (a) who gave the statement;
- (b) when, where and by whom the statement obtained;
- (c) whether the statement was recorded, written or otherwise preserved;
- (d) the name and address of the person having possession of any such statement;
- (e) if statement was written or recorded, state whether the original is still available, and if so, who presently has possession of it; and
- (f) please attach to your answers a copy of the statement(s).

**ANSWER:**

Not Applicable

8. Please indicate whether you or any of your representatives have had any conversations with anyone having information relative to any of plaintiff's claims or the incidents giving rise to this lawsuit.

**ANSWER:**

It is believed that the defendant Harvey Miller called and talked to Darlene Bierly some time after the accident about the paperwork concerning the sale of the horse. The paperwork is attached to the answer of this interrogatory. She did not record the call, nor did she make a note of it.

# JERSEY SHORE LIVESTOCK MARKET, INC. d/b/a PENNS VALLEY MARKET

PHONE (814) 349-5099

ALL KINDS OF LIVESTOCK SOLD ON COMMISSION

Date 5/31/02 PO BOX 57, REBERSBURG, PA 16872  
Name Harriet Miller  
Address \_\_\_\_\_

JERSEY SHORE LIVESTOCK, INC.  
d/b/a PENNS VALLEY MARKET  
BUYING STATION EVERY TUESDAY  
(814) 384-1798  
(814) 349-5089  
Rebersburg, PA 16872

SALE NO.	SALE NO.	DESCRIPTION	WEIGHT	PRICE	EXTENSION
1	500	Driving Horse		<u>1450.00</u>	
2			TAX	<u>87.00</u>	
3				<u>1,537.00</u>	
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17		<i>Soil of</i> <i>Chock</i> <i>Cost</i>			
18					
19					
20					
21					
22					
23					
24					
25					

All livestock accepted subject to rules and regulations made known to firms.

Trucker \_\_\_\_\_ \$ \_\_\_\_\_

NO GUARANTEE AGAINST SICKNESS, ACCIDENT OR DEATH

SALE DAY TUESDAY

P & S REGULATION:  
All bills must be paid in 24 hours.  
Accounts 30 days past due will add 1.25%  
interest per month or 18% annually.



9. If the answer to the previous Interrogatory is yes, please:

- (a) identify who had the conversation on your behalf;
- (b) identify whom you or your representative spoke to;
- (c) for each conversation, indicate what was said by each person;
- (d) for each conversation, indicate whether anyone took any notes, made any recordings, or made any type of compilation of data or information relative to such conversation(s); and
- (e) attach a copy of any such notes, recordings or compilations to your answers to these Interrogatories.

**ANSWER:**

See answer to Interrogatory #8.

10. State whether you had insurance coverage applicable to the accident involved in this case. If so, please provide the following information:

- (a) the name of the insurance carrier;
- (b) the policy number;
- (c) the applicable policy dates;
- (d) whether any question concerning coverage has been raised by the carrier;
- (e) kindly attach a copy of the declaration page of your policy to your responses to these Interrogatories.

**ANSWER:**

The defendant may have coverage, but they have not done anything about it. They believe this lawsuit is not going anywhere and they do not want to bother their insurance agent. Counsel has attached a copy of the declaration sheet.

11. Have you prepared any reports regarding the incident alleged in the complaint? If so, provide the following:

- (a) the person, persons, or entities preparing the reports;
- (b) the date of creation;
- (c) attach copies of all such reports to your answers to these Interrogatories.

**ANSWER:**

No.

THIS IS AN ASSESSABLE POLICY

No. 02494L

CENTRE COUNTY MUTUAL FIRE INSURANCE  
COMPANY PATRONS OF HUSBANDRY

Insured's Name and Mailing Address

Jersey Shore Livestock Inc  
c/o David & Darlene Bierly  
2637 Earlystown Road  
Centre Hall, PA 16828

Agent

Thomas F. Brigandi  
5707484022

CITY/STATE/ZIP

3208 Bonner Pike, Suite 121  
Bellefonte, PA 16823-8412  
Phone: 814-355-4855

08/19/02

08/19/05

3

New

Inspection Date

Expiration Date

V.M.M.

General No

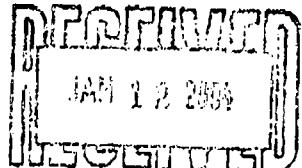
It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.  
**INSURANCE IS PROVIDED AGAINST ONLY THOSE PERILS AND FOR ONLY THOSE COVERAGES INDICATED BELOW BY A PREMIUM CHARGE AND AGAINST OTHER PERILS AND FOR OTHER COVERAGES ONLY WHEN ENDORSED HEREON OR ADDED HERETO.**

AMOUNT	RATE	EXPIRATION	PERILS	NOTES
\$ 965,100.00	\$ 2.81/2.53/3.04/	8 2965.00	FIRE AND LIGHTNING	
\$ .65	3.19	\$ 462.00	EXTENDED COVERAGE	
\$ .72		\$ 512.00	VMM or VMM and OTHER PERILS	
		\$ 1505.00	Liability 1,000,000	

\$ TOTAL PREMIUM FOR POLICY TERM UNDER D.P.P.P.		TOTAL \$ 5444.00 1361.00 Quarterly \$500 Deductible applies to all insured property items		
Policy No.	Amount Paid at Premium and Extended Premium Date of Policy Issuance	Per Cent Commission Applicable	DESCRIPTION AND LOCATION OF PROPERTY COVERED Show construction, type of roof, total cost, dimensions, location, and extending the property covered. If occupied, its location, state number, and name of owner.	

SEE ATTACHED SCHEDULE



Attached hereto

5599

Subject to Form Note: DP-3 (0177); F1-CCM; G11-CCM;

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO AND OF the premium above specified, this Company for the term of years specified above from Inception date shown above At Noon (Standard Time) to expiration date shown above At Noon (Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified, does insure the insured named above and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss without allowing for any increased cost of repair or reconstruction by reason of any ex-

istence or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described herein while located or carried as described in this policy or its rats for five days at each proper place to which any of the property aforesaid may be removed for preservation from the perils insured against in this policy, but not elsewhere.

Mortgage Clause: Subject to the provisions of the mortgage clause attached hereto, loss, if any, on building items, shall be payable to:

Assignment of this policy shall not be valid except within the written consent of this Company.

This policy is made and executed subject to the foregoing provisions and

stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto as provided in the policy.

IN WITNESS WHEREOF, this Company has executed and attested these presents this 14 day of August 2002

Attest: John Brigandi

F1-CCM18-93; PAGE 1

## SUPPLEMENTAL DECLARATIONS

Centre County Mutual			Policy # 02494L
New Jersey Shore Livestock Inc			
<p style="text-align: center;"><b>DESCRIPTION AND LOCATION OF PROPERTY COVERED</b></p> <p>Building construction, type of roof and occupancy of building(s) covered or continuing the property covered, if occupied as a dwelling, # of number of families.</p>			
Item No.	Amounts Fire or Flood and Extended Cov. or Other Purp.	Pw Card or Compensation Applicable	
1	100,000	NIL	Retail Farmers Market at Rd 2 Jersey Shore Lycoming CO.. Nippenese Twp., PA
2	9,600	NIL	Loss of Income
3	306,000	NIL	Livestock Auction Located at Rd2 Jersey Shore Lycoming Co., Nippenese Twp., PA
4	96,000	NIL	Loss Of Income
5	305,000	NIL	Livestock Auction Barn Located at Rt 45 Potter Twp., Centre Hall Centre Co., Pa
6	144,000	NIL	Loss Of Income
			1st Mortgagor on Item 5. Lois J Bierly 6203 Brush Valley Rd. Rebersburg, PA 16872
			2nd Mortgagor on Item 5: Omega Bank PO Box 298 State College, PA 16804
			EFFECTIVE: 10/9/03 1st & 2nd mortgage added to Livestock Auction Barn located at Rt 45, Potter Twp., Centre Hall, Centre Co., PA. NO CHANGE IN PREMIUM

12. Please state the name, title and present address of each person whom you expect to call as an expert witness at the trial of this case.

**ANSWER:**

None.

13. As to each person named in your answer to the previous Interrogatory, please state the following:

- (a) the substance of each fact to which he or she is expected to testify;
- (b) the substance of each opinion to which he or she is to testify;
- (c) the grounds for each opinion; and
- (d) the background, training, experience and other qualifications of the expert.

**ANSWER:**

None.

14. If you contend that the plaintiff was in any way contributory and/or comparatively negligent at the time of the accident, identify with particularity each alleged negligent act or omission by plaintiff and identify each and every fact or opinion upon which you rely in asserting that plaintiff was contributory and/or comparatively negligent.

**ANSWER:**

The defendant corporation and Darlene Bierly have absolutely no knowledge of any particulars of the accident.

15. If you contend plaintiff assumed the risk of injuries, state with particularity each risk assumed by plaintiff and each fact or opinion upon which you intend to rely in asserting plaintiff assumed the risk of injuries.

**ANSWER:**

See answer to Interrogatory #14.

16. If you contend an agent, employer or representative of the plaintiff was in any way contributory and/or comparatively negligent at the time of the incident, identify with particularity each alleged negligent act or omission by such person(s) and identify each and every fact or opinion upon which you rely in asserting that such person(s) was/were contributory and/or comparatively negligent.

**ANSWER:**

See answer to Interrogatory #14.

17. As to each fact and/or opinion contained in your response to the previous Interrogatory, please identify:

- (a) each witness having knowledge or information in support or refuting the asserted fact or opinion;
- (b) all documents supporting or refuting the asserted fact or opinion; and
- (c) any other piece of evidence known to you supporting or refuting the asserted facts or opinions not listed in your response to (a) or (b) above.

**ANSWER:**

Not Applicable.

18. Do you contend that the negligence of anyone other than the parties to this case caused or contributed to the accident and/or plaintiff's injuries?

**ANSWER:**

The defendant has no knowledge of anything about the accident or the actions of the immediate participants.

19. If your answer to the previous Interrogatory is in the affirmative, identify the following:

- (a) name and address of all such persons;
- (b) the manner in which said persons were negligent; and
- (c) the manner in which said persons should have acted to be free of negligence.

**ANSWER:**

Not Applicable.

20. Please state the length of time that you boarded, leased or otherwise provided care for the at-issue animal prior to the sale of the animal through Penns Valley Livestock Auction, Inc.

**ANSWER:**

All animals arrived between six and twelve hours prior to the sale.

21. Please identify the following:

- (a) the month and year in which the at-issue animal was acquired for sale by the defendant;
- (b) names and addresses of each person or organization from whom defendant acquired the at-issue animal; and
- (c) the month and year in which the at-issue animal was acquired for auction by the defendants.

**ANSWER:**

- A. May 31, 2002
- B. The horse was consigned by Noah Hostetler of Beaver Springs, Snyder County.
- C. May 31, 2002

22. While in the defendant's possession, please identify the type of work that the defendant had the at-issue animal perform.

**ANSWER:**

The defendant had absolutely no work done by the horse. The defendant's activities consisted of giving the horse an ear tag.

23. Please state, during the period that defendant boarded, leased or otherwise provided care for the at-issue animal, the number of hours per week that the at-issue animal was driven on public roadways.

**ANSWER:**

At no time was the horse operated on public roadways.

24. Please state the methods used by defendant to train the at-issue animal to ensure that the animal was "road worthy"?

**ANSWER:**

The defendant did not insure that the horse was road worthy. The defendant provides a roped off area where the seller hitches up his animal if they are buggy animals and allows perspective bidders to try them.

25. Please identify each contract and/or bill of sale signed by defendant with regards to the at-issue animal and the sale through Penns Valley Livestock Auction, including:

- (a) a description of contract and/or bill of sale;
- (b) its date, title, and authors;
- (c) the substance and contents;
- (d) the name and address of the custodian of contract and/or bill of sale;
- (e) date of contract and/or bill of sale; and
- (f) please attach a copy of contract and/or bill of sale.

**ANSWER:**

A copy of the sale documents is attached, indicating that Mr. Hostetler consigned four horses and Mr. Miller purchased horse No. 560.

26. Please state the type of use for which the at-issue animal was intended when sold by the defendant through Penns Valley Livestock Auction.

**ANSWER:**

The auctioneer has no idea whether the horse will be used for pleasure, polo, glue, buggy driving or any other recreational purpose.

27. Has the defendant, prior to the time of the alleged incident, trained other horses for use on public highways?

**ANSWER:**

No. The defendant is an auctioneer and has a consignment auction.

28. If the answer to the preceding Interrogatory is in the affirmative, identify the following:

- (a) the date the defendant began training the horses;
- (b) whether the training has been discontinued, and,
- (c) state the date of and reason for discontinuance, if applicable.

**ANSWER:**

Not Applicable.

29. Did the at-issue animal, at the time of auction at Penns Valley Livestock Auction, meet all relevant standards of the trade with which the animal was intended to be used?

**ANSWER:**

There are no standards of the trade for a consignment horse auction. From time to time a seller may stand up while the animal is in the ring and say I guarantee this horse to be sound and road worthy for one week. It is not known whether Mr. Hostetler did this.

30. If the answer to the preceding Interrogatory is in the negative, please describe each and every way in which the at-issue animal did not conform to the industry standards.

**ANSWER:**

Not Applicable.

31. Was the defendant at any time prior to the alleged occurrence aware of any hazard, defect, or defective condition in the at-issue animal?

**ANSWER:**

No.

32. If the answer to the preceding Interrogatory is in the affirmative, identify the following:

- (a) the date the defendant became aware of each;
- (b) the nature of each;
- (c) whether the defendant informed anyone of the hazard, defect, or defective condition; and,
- (d) if the answer to the preceding sub-part of this interrogatory is in the affirmative, the date anyone was informed, the manner of communication, the name of the person informed, and the substance of the communication.

**ANSWER:**

Not Applicable.

33. If any person, firm, or corporation, within the past 5 years, has brought any legal

Action against the defendant regarding similar incidents, please state for each action:

- (a) the names and addresses of all parties, both plaintiff and defendants;
- (b) the date the action was filed;
- (c) the name and address of the custodian of all records relating to the action;
- (d) where and when council may examine the records relating to the action; and
- (e) the result of the action.

**ANSWER:**

There have been no similar incidents; however two claims have been made since 1983 against the defendant auction. In one incident a little boy got too near a mule which was penned and offered for sale, and the mule bit him. In another incident, an Amish man fell from the second row of seats of the bleachers and fractured three ribs.

34. Identify and describe in detail any and all written and oral warranties between defendant and any of the other defendants in this matter in effect at any time on or prior to July 16, 2002.

**ANSWER:**

As previously described, sellers may make warranties in the ring while the horse is being sold. There is no record of this and the auctioneer does not guarantee this and cannot recall whether or not Mr. Hostetler made any warranties.

35. Identify and describe in detail any and all inspections of the at-issue animal by any of the defendants in this matter at any time on or prior to July 16, 2002.

**ANSWER:**

Other than observing that the animal was breathing, the defendant livestock auction only placed a tag in it's ear.

36. Please identify all tests performed on the at-issue animal to ensure that the animal was "road worthy", stating:

- (a) date of test(s);
- (b) location of test(s);
- (c) nature of test(s); and
- (d) name, address and title of person administering test(s).

**ANSWER:**

None of this defendant.

37. Identify and describe in detail any and all representations made concerning the at-issue animal between plaintiff and any of the defendants in this matter concerning the abilities, training and "road-worthiness of the animal.

**ANSWER:**

None of this defendant.

38. Please identify all tests performed on the at-issue animal to ensure that the animal met the warranty provided by the seller, stating:

- (e) date of test(s);
- (f) location of test(s);
- (g) nature of test(s); and
- (h) name, address and title of person administering test(s).

**ANSWER:**

None by this defendant.

Kindly supplement your responses to these Interrogatories if additional information and/or documents become available to you.

**REQUESTS**

1. Any and all insurance agreements, policies, documents, notes, or payments which would be applicable to the alleged occurrence, which may be able to satisfy all or any part of a judgment which may be rendered against defendants in the above captioned case.

**ANSWER:**

Copy of Declaration Sheet is attached to Interrogatory # 10.

2. Any and all photographs, diagrams, charts, drawings, films, videos, recordings or preserved elements regarding the at issue animal.

**ANSWER:**

None.

3. Any and all documents, invoices, sales slip, receipt, invoice bill, purchase order, lease or agreement, or other document which was issued or recorded because of the sale, purchase or lease of the at-issue animal which is the subject of this litigation, including but not limited to bills of sale, lease agreement, and written warranties.

**ANSWER:**

Copy of sales slips are attached to Interrogatory # 8.

4. Any and all documents, invoices, sales slip, receipt, invoice bill, purchase order, lease or agreement, or other document which was issued or recorded because of the sale or purchase of the at-issue animal which is the subject of this litigation.

**ANSWER:**

See answer to Request for Production No. 3.

5. Any and all written, printed, or graphic representation, warranty, catalogue, statement, circular, manual, brochure, report, advertisement, or other document which was propounded by or on behalf of the defendant and which mentions, describes, or otherwise refers to the virtues, qualities, characteristics, capabilities, or capacities of the at-issue animal, or the dangers, limitations, or propensities of the at-issue animal.

**ANSWER:**

None.

6. Any and all documents, warranties, invoices, sales slip, receipt, invoice bill, purchase order, lease or agreement, or other document which was issued or recorded because of the sale of the at-issue by the defendant.

**ANSWER:**

See answer to Request for Production No. 3.

7. Any and all written, printed, or graphic representation, catalogue, statement, circular, manual, brochure, report, advertisement, directions, procedure, or other document which accompanied the at-issue animal when it was sold or delivered to the plaintiff or defendant, whichever the case may be.

**ANSWER:**

None.

8. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any possible, alternative, recommended, or foreseeable use of the at-issue animal.

**ANSWER:**

None.

9. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any defective condition that existed, exists or is thought to have existed in the at-issue animal.

**ANSWER:**

None.

10. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any precaution taken by the defendant in order to prevent any harm to anyone using, controlling and/or operating the at-issue animal.

**ANSWER:**

None.

11. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any precautions that were recommended to the defendant, or that otherwise should have been taken by the defendant in order to prevent any harm that may occur to anyone using, controlling and/or operating the at-issue animal.

**ANSWER:**

None.

12. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any warning, instruction, or direction for the benefit of users, controllers and/or operators of the at-issue animal.

**ANSWER:**

None.

13. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any test, procedure, inspection, or examination which the defendant performed on the at-issue animal.

**ANSWER:**

None.

14. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any test, procedure, inspection, or examination performed by the defendant, or any agent or employee thereof, on the at-issue animal prior to the date of the alleged incident.

**ANSWER:**

None.

15. Any and all training manuals, reference guides, books, flyers, documents or notes regarding the training provided to any and all of the defendant's employees in the proper operation of the at-issue animal and similar animals.

**ANSWER:**

None.

16. Each and every law, rule, regulation, standard, statute, ordinance, or other requirement or recommendation which deals with, defines, limits or specifies any use of the at-issue animal or similar animals including, but not limited to, any of the above which was established, published, or otherwise promulgated by any professional association, trade association, industry association, or private group.

**ANSWER:**

None.

17. Each and every proposed law, proposed rule, proposed regulation, proposed standard, proposed statute, proposed ordinance, or other proposed requirement or proposed recommendation which deals with, defines, limits or specifies any aspect of the use of the at-issue animal or similar animals including, but not limited to, any of the above which was established, published, or otherwise promulgated by any professional association, trade association, industry association, or private group, whether or not the defendant is a member thereof.

**ANSWER:**

None.

18. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document whose contents were used by the defendant to advertise or otherwise promote the at-issue animal via radio, television, mail, magazine, newspaper, or any other oral or written medium.

**ANSWER:**

None.

19. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to the at-issue animal or similar animals and have been written, published, broadcast, issued, or otherwise produced by any consumer or other non-governmental group.

**ANSWER:**

None.

20. Each and every certificate, seal of approval, or other award which has been awarded or granted to the at-issue animal or similar animals, or which has been awarded or granted to the defendant due to the at-issue animal or similar animals.

**ANSWER:**

None.

21. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to the alleged occurrence and which was written or made by the defendant or any agent or employee thereof.

**ANSWER:**

None.

22. Any and all statements, printed or graphic representation, catalogue, brochure, report, memorandum, letter, advertisement, or other document which in any way mentions, describes, or otherwise refers to any test, inspection, or examination of the at-issue animal made by the defendant or any agent or employees thereof prior to the sale.

**ANSWER:**

None.

23. Each statement, memorandum, communication, letter, or other document received by the defendant, or any agent or employee thereof, by which the defendant received notice from the plaintiff, plaintiff's attorney or some other person on behalf of the plaintiff, regarding the instituting of the present litigation.

**ANSWER:**

None.

24. Each and every document that mentions, describes or in any way refers to a complaint concerning the at-issue animal or similar animal, whether or not made by consumers, which were made within the past 5 years.

**ANSWER:**

None.

25. All pleadings, including deposition transcripts, filed by all parties in every legal action arising within the last 5 years which involved the at-issue animal or similar animals.

**ANSWER:**

None.

26. Any and all accident reports generated prior to and subsequent to the alleged occurrence involving the at-issue animal or similar animals.

**ANSWER:**

None.

27. Any and all resumes or curriculum vitae summarizing qualifications of any potential witnesses, lay and expert, whom defendant intends to call as a witness at trial.

**ANSWER:**

None.

28 Any and all expert reports that have been prepared regarding the alleged occurrence and the at issue animal.

**ANSWER:**

None.

29. Defendant's entire claims and investigation files related to the occurrence but excluding any information that is not discoverable under the Pennsylvania Rules of Civil Procedure.

**ANSWER:**

None.

30. Any and all exhibits that the defendant intends to introduce at the time of trial.

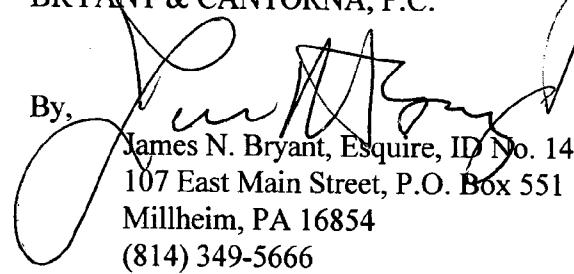
**ANSWER:**

None.

Respectfully Submitted,

BRYANT & CANTORNA, P.C.

By,

  
James N. Bryant, Esquire, ID No. 14804  
107 East Main Street, P.O. Box 551  
Millheim, PA 16854  
(814) 349-5666

Attorney for Darlene R. Bierly &  
Penns Valley Livestock Auction, Inc.

DATE: January 28, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on January 28, 2005, a true and correct copy of the foregoing  
***Defendants' Answers to Plaintiff's Interrogatories and Request for Production of Documents***  
***Directed to Defendants*** was served by First Class U.S. Mail, postage prepaid, upon the  
following:

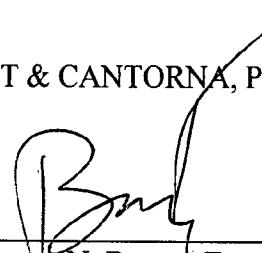
Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Robert B. Woomer, Esquire  
Law Offices of Woomer & Friday LLP  
3220 West Liberty Avenue, Suite 200  
Pittsburgh, PA 15216-2320  
Attorney Peter W. Frailey

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley, Esquire  
41 South Main Street  
Middleburg, PA 17842  
Attorney for Noah Hostetler

BRYANT & CANTORNA, P.C.

By: \_\_\_\_\_

  
James N. Bryant, Esquire  
Attorney for Darlene R. Bierly &  
Penns Valley Livestock Auction, Inc.

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

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

vs.

HARVEY J. MILLER ,

Docket No.: 2004 - 00393 - CD

Code No.:

Defendant.

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**PRAECIPE TO ENTER APPEARANCE**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:

Richard G. Talarico, Esquire  
Pa I.D. # 93449

Robert B. Woomer, Esquire  
Pa I.D. #59030

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320  
Tele # (412)563-7980  
Fax # (412)563-0120

**JURY TRIAL DEMANDED**

FILED *NO CC*  
*m/3/2006* MAY 30 2006 Copy to CIA  
*un*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

vs.

HARVEY J. MILLER,

Docket No. : 2004 - 00393 - CD

Defendant.

Code No.:

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**PRAECIPE TO ENTER APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my appearance as co-counsel with Robert B. Woomer, Esquire on behalf of the Plaintiff, Peter W. Frailey, in the above-captioned matter.

Respectfully submitted,

Woomer & Friday LLP



Richard G. Talarico, Esquire  
Pa I.D. # 93449

Woomer & Friday LLP  
3220 West Liberty Avenue, Ste. 200  
Pittsburgh, PA 15216-2320

(412)563-7980

May 26, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2006, a true and correct copy of the foregoing *Praecipe for Appearance* was served by First Class U.S. Mail, postage prepaid, upon the following:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
(*Attorney for Harvey Miller*)

James N. Bryant, Esquire  
Law Offices of Bryant & Cantorna, P.C.  
107 East Main Street  
P.O. Box 551  
Millheim, PA 16854  
(*Attorney for Darlene R. Bierly and Penns Valley Livestock Auction, Inc.*)

Lori Hackenberg, Esquire  
Law Office of Michael H. Sholley  
41 South Main Street  
Middleburg, PA 17842  
(*Attorney for Noah Hostetler*)

Woomer & Friday LLP

By: 

Richard G. Talarico, Esquire  
Attorneys for Plaintiff

WA

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

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER,

Defendant

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

**CIVIL TRIAL LISTING / CERTIFICATE  
OF READINESS**

Filed on Behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Richard G. Talarico, Esquire  
Pa. I.D. # 93449

Woomer & Hall, LLP  
2945 Banksville Road  
Suite 200  
Pittsburgh, PA 15216  
(412) 388-0848

**JURY TRIAL DEMANDED**

FILED NO  
M 11 02 2004  
JUN 01 2007  
GW

William A. Shaw  
Prothonotary/Clerk of Courts

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

**Civil Trial Listing/Certificate of Readiness**

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**To: The Prothonotary**

Arbitration Limit:

Type Trial Requested:  Jury  Non-Jury  Arbitration

Estimated Trial Time: 3 days

Jury Demand Filed By: Plaintiff

Date Jury Demand Filed: 07-15-2004

Please place the above-captioned case on the trial list. I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

Signature

May 29, 2007

For the Plaintiff: Richard G. Talarico, Esquire (412) 388-0848 Telephone Number

For the Defendant: Querino R. Toretti, Esquire (814) 653-2243 Telephone Number

For Additional Defendant: \_\_\_\_\_ Telephone Number

Certification of Current Address for all parties our counsel of record:

Name: Richard G. Talarico Address: 2945 Banksville Road City/State/Zip: Pittsburgh, PA 15220  
Name: Querino R. Toretti Address: 600 East Main Street City/State/Zip: Reynoldsville, PA 15851

Woomer & Hall LLP

Richard G. Talarico, Esquire  
Pa I.D. # 93449  
Attorney for Plaintiff

Woomer & Hall, LLP  
2945 Banksville Road  
Suite 200  
Pittsburgh, PA 15216  
(412) 388-0848

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

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

**NOTICE OF CHANGE OF ADDRESS OF  
THE LAW FIRM OF WOOMER & HALL  
LLP**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Richard G. Talarico, Esquire  
Pa I.D. # 93449

Woomer & Hall LLP  
2945 Banksburg Road  
Suite 200  
Pittsburgh, PA 15216-2749  
(412) 388-0848

**JURY TRIAL DEMANDED**

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

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**NOTICE OF CHANGE OF ADDRESS OF THE  
LAW FIRM OF WOOMER & HALL LLP**

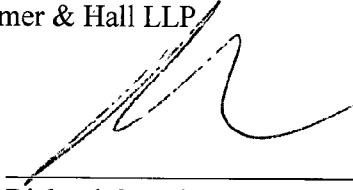
**NOTICE IS HEREBY GIVEN** that the Law Firm of Woomer & Hall LLP, has  
relocated its offices. The new address information for said Law Firm is as follows:

Woomer & Hall LLP  
2945 Banksville Road, Suite 200  
Pittsburgh, PA 15216-2749  
Phone: (412)388-0848  
Fax: (412)388-0946

Respectfully Submitted May 29, 2007.

Woomer & Hall LLP

By: \_\_\_\_\_

  
Richard G. Talarico, Esquire  
Pa I.D. # 93449  
Attorney for Plaintiff

Woomer & Hall, LLP  
2945 Banksville Road  
Suite 200  
Pittsburgh, PA 15216  
(412) 388-0848

**CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2007, a true and correct copy of the foregoing *Notice of Change of Address* was served by First Class U.S. Mail, postage prepaid, upon the following:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
*(Attorney for Harvey Miller)*

Woomer & Hall LLP

By: \_\_\_\_\_  
Richard G. Talarico, Esquire  
Pa I.D. # 93449  
Attorney for Plaintiff

Woomer & Hall, LLP  
2945 Banksville Road  
Suite 200  
Pittsburgh, PA 15216  
(412) 388-0848

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

PETER W. FRAILEY  
Plaintiff  
vs.  
HARVEY J. MILLER  
Defendant

\* \* \* \* NO. 04-393-CD

ORDER

AND NOW, this 27th day of July, 2007, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the **24th day of August, 2007**, in Chambers at 2:00 o'clock p.m.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

FILED

07/27/2007 cc Atlys:  
JUL 27 2007 Woerner & Talarico

William A. Shaw  
Prothonotary/Clerk of Courts

Torrethi

GK

**FILED**

**JUL 27 2007**

Prothonotary/Clerk of Courts  
William A. Shaw

DATE: 7/27/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

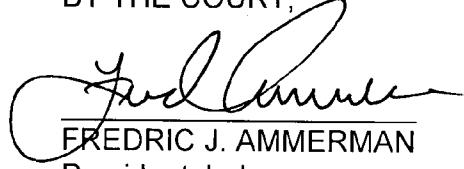
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

PETER W. FRAILEY \*  
Plaintiff \*  
\*  
vs. \* NO. 04-393-CD  
\*  
HARVEY J. MILLER \*  
Defendant \*

ORDER

NOW, this 24<sup>th</sup> day of August, 2007, the Court noting that the pre-trial conference scheduled for this date being continued due to their being insufficient court time available to try the case this term, it is the ORDER of this Court that the matter be continued. The Court Administrator shall list the case for jury trial in the Winter Term, 2008 of Court.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED 1CC ATTYS:  
012:13 cm R. Woerner  
AUG 27 2007 R. Talarico

William A. Shaw Q. Torretti  
Prothonotary/Clerk of Courts Bryant  
Hackenberg

(68)

DATE: 8-27-2007

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

**FILED**

**AUG 27 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

(A)

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

PETER W. FRAILEY :  
vs. : No. 04-393-CD  
HARVEY J. MILLER :  
:

**ORDER**

AND NOW, this 18 day of October, 2007, it is the Order of the Court that a pre-trial conference in the above-captioned matter has been scheduled for Wednesday, November 14, 2007 at 9:30 A.M. in Judges Chambers, Clearfield County Courthouse, Clearfield, PA. Additionally, Jury Selection in this matter will be held on January 3, 2008.

**FILED**

*01/15/08*  
OCT 15 2007

William A. Shaw  
Prothonotary/Clerk of Courts

*2CC Attn: Toretti  
Wanner*

*G*

BY THE COURT:

*Fredric J. Ammerman*  
FREDRIC J. AMMERMAN  
President Judge

FILED

OCT 15 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 10/15/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

PETER W. FRAILEY,  
Plaintiff

v.

HARVEY J. MILLER,  
Defendant

... : No. 2004 - 00393 - CD

FILED NO  
M 12 55 PM  
OCT 29 2007 (6)  
William A. Shaw  
Prothonotary/Clerk of Courts

\*\*\*\*\*  
PETER W. FRAILEY,  
Plaintiff

v.

... : No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;  
and  
NOAH HOSTETLER,  
Defendants

**Motion for Summary Judgment**

Filed on behalf of  
**Defendant, Darlene R. Bierly, Penns  
Valley Livestock Auction, Inc., a  
Pennsylvania Corporation, t/d/b/a  
Penns Valley Livestock Auction**

Counsel of Record for this Party:

James N. Bryant, Esq.  
Attorney-At-Law  
PA I.D. 14084

BRYANT & CANTORNA, P.C.  
107 East Main Street  
P. O. Box 551  
Millheim, PA 16854

(814) 349-5666

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

PETER W. FRAILEY,  
Plaintiff

v.

No. 2004 - 00393 - CD

HARVEY J. MILLER,  
Defendant

\*\*\*\*\*  
PETER W. FRAILEY,  
Plaintiff

v.

No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;

and  
NOAH HOSTETLER,  
Defendants

ORDER

AND NOW, this 31 day of October, 2007, upon consideration of the foregoing

Motion, a rule is granted upon the Plaintiff to show cause why such relief should not be granted. Rule  
returnable thereon the 30th day of November, 2007, for filing written response.

NOTICE

A Petition or Motion has been filed against you in Court. If you wish to defend against the claims set forth in the following Motion by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the matter set forth against you. You are warned that if you fail to do so the case may proceed without you and an order may be entered against you by the Court without further notice for relief requested by the Petitioner or Movant. You may lose rights important to you.

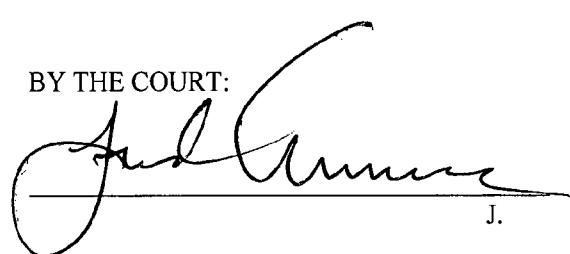
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
MARKET & SECOND STREETS  
CLEARFIELD, PA 16830  
814-765-2641, EXT. 50-51.

FILED <sup>5CC</sup>  
010-34761 Atty Bryant  
OCT 31 2007  
(66)

William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT:

  
J.

**FILED**

**OCT 31 2007**

**William A. Shaw  
Prothonotary/Clerk of Courts**

DATE: 10/31/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

PETER W. FRAILEY, :  
Plaintiff :  
v. : No. 2004 - 00393 - CD

HARVEY J. MILLER, :  
Defendant :  
\*\*\*\*\*

PETER W. FRAILEY, :  
Plaintiff :  
v. : No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY :  
LIVESTOCK AUCTION, INC., a :  
Pennsylvania Corporation t/d/b/a PENNS :  
VALLEY LIVESTOCK AUCTION; :  
and :  
NOAH HOSTETLER, :  
Defendants :  
\*\*\*\*\*

**MOTION FOR SUMMARY JUDGMENT FILED ON BEHALF  
OF DEFENDANT, DARLENE R. BIERLY, PENNS VALLEY LIVESTOCK  
AUCTION, INC., a Pennsylvania Corporation, t/d/b/a PENNS VALLEY  
LIVESTOCK AUCTION**

AND NOW, comes the Defendant, DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a Pennsylvania Corporation t/d/b/a Penns Valley Livestock  
Auction, by and through their attorney, James N. Bryant, Esq., of Bryant & Cantorna, P.C., and  
file this Motion for Summary Judgment, and aver as follows:

1. This lawsuit arose at the result of an accident where the Defendant, Harvey J.  
Miller's, horse got in front of a tractor trailer operated by Peter W. Frailey.

2. Mr. Frailey has sued Darlene R. Bierly, Pennsylvania Valley Livestock Auction, Inc., as well as the individual who consigned the horse to the auction.

3. A deposition of Harvey Miller indicates that on May 31, 2002 he purchased a buggy horse at an auction (Miller Deposition - Pages 7-9).

4. He further testified that he did not test drive the horse prior to the purchase. (Miller Deposition - Page 7)

5. The collision took place on July 16, 2002.

6. The complaint alleges that the Defendant, Darlene R. Bierly, was negligent in failing to train the horse, in failing to warn the Plaintiff the horse was not road worthy and in breaching an implied covenant of road worthiness and failing to comply with industry standards.

7. The deposition of the original owner of the horse, Noah Hostetler, indicates no warranties were made. (Hostetler Deposition - Pages 12-13)

8. Defendant Hostetler also indicated that the buyers are to "take the horse out and drive it and the buyer can see what the horse does when you are driving the horse...You, as the buyer, got to decide whether you want the horse or not... And like they have the seven day guarantee. If the horse doesn't do what its supposed to do --because everybody knows what a horse is supposed to do. Within seven days, if the horse doesn't do that they'll come back to the sale barn and the sale barn comes back to you and you know you can take the horse back."

(Hostetler Deposition - Page 13.).

9. The owner of the sale barn, Darlene Bierly, indicated the only warranty made was "Everyone that purchases a horse at our sale has one week to reject the animal, if its not what the seller says it is." (Bierly Deposition - Page 17)

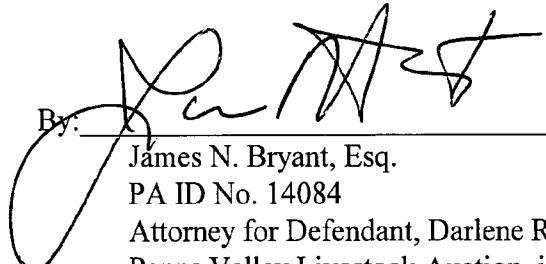
10. The Plaintiff has shown no industry standards that were violated.

11. The Plaintiff has shown absolutely no proof of either Defendant, Penns Valley Livestock Auction, Inc. or its principal shareholder, Darlene Bierly, having knowledge of any unusual quirks of the horse.

12. The Defendant Bierly has shown that Defendant Miller had ample opportunity to check out the horse, and further had a seven day, money back guarantee.

13. Plaintiff can produce absolutely no evidence of any breach of warranty or industry standards and summary judgment is appropriate in this case.

BRYANT & CANTORNA, P.C.

By:   
James N. Bryant, Esq.  
PA ID No. 14084  
Attorney for Defendant, Darlene R. Bierly,  
Penns Valley Livestock Auction, inc., a  
Pennsylvania Corporation t/d/b/a Penns  
Valley Livestock Auction  
107 East Main Street, P.O. Box 551  
Millheim, PA 16854  
(814) 349-5666  
(814) 349-2212 (fax)  
[Jnbryant1@verizon.net](mailto:Jnbryant1@verizon.net)

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

PETER W. FRAILEY, :  
Plaintiff :  
v. : No. 2004 - 00393 - CD  
HARVEY J. MILLER, :  
Defendant :  
\*\*\*\*\*  
PETER W. FRAILEY, :  
Plaintiff :  
v. : No. 04 - 1076 - CD  
DARLENE R. BIERLY, PENNS VALLEY :  
LIVESTOCK AUCTION, INC., a :  
Pennsylvania Corporation t/d/b/a PENNS :  
VALLEY LIVESTOCK AUCTION; :  
and :  
NOAH HOSTETLER, :  
Defendants :  
:

CERTIFICATE OF SERVICE

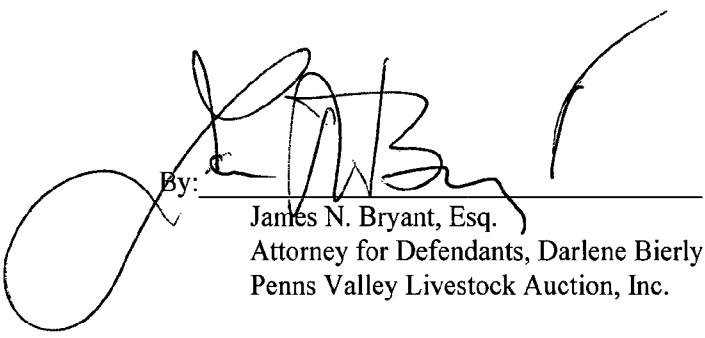
I hereby certify that a true and correct copy of the within **MOTION FOR SUMMARY**  
**JUDGMENT FILED ON BEHALF OF DEFENDANT, DARLENE R. BIERLY, PENNS**  
**VALLEY LIVESTOCK AUCTION, INC., a Pennsylvania Corporation, t/d/b/a PENNS**  
**VALLEY LIVESTOCK AUCTION** was served by depositing the same with the United States

Postal Service, postage prepaid, addressed to the following:

Robert B. Woomer, Esq.  
Richard G. Talarico, Esq.  
(Attorneys for Plaintiff)  
Woomer & Friday, LLP  
3220 West Liberty Avenue  
Suite 200  
Pittsburgh, PA 15216

Querino R. Torretti, Esq.  
(Attorney for Harvey Miller)  
P. O. Box 218  
Reynoldsville, PA 15851

Lori Hackenberg, Esq.  
(Attorney for Noah Hostetler)  
41 South Main Street  
Middleburg, PA 17842

By:   
James N. Bryant, Esq.  
Attorney for Defendants, Darlene Bierly and  
Penns Valley Livestock Auction, Inc.

DATED: October 26, 2007

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

FILED  
11/16/2007  
NOV 16 2007

PETER W. FRAILEY  
Plaintiff

VS.

HARVEY J. MILLER  
Defendant

NO. 04-393-CD

William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Atty's: Woerner  
3-CD Bryant  
Torretti  
Hackenberg  
Talarico  
(61)

## ORDER

NOW, this 14<sup>th</sup> day of November, 2007, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

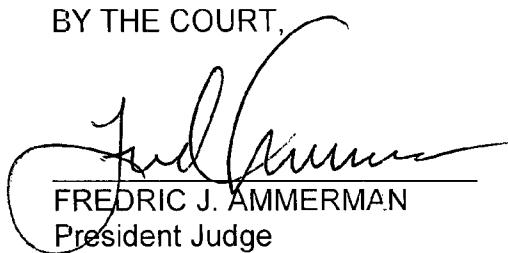
1. Jury Selection will be held on April 3, 2008 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for April 16, 17 and 18, 2008 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. All depositions which are to be used for trial presentation purposes shall be completed by absolutely no later than sixty (60) days prior to the commencement of trial or the same will not be available for use at trial. A copy of the transcript of any such deposition(s) shall be provided to opposing counsel within no more than twenty (20) days following completion of the deposition(s).
4. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of trial. All

objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement of trial.

5. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.

6. The parties hereby agree to the authenticity of any and all medical records and bills which were previously provided through the discovery process. No party shall be required to produce a medical records witness for purposes of authentication.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

**FILED**

NOV 16 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 11/16/07

You are responsible for serving all appropriate parties:

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other  
Defendant(s)  Defendant(s) Attorney   
Special Instructions:

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

PETER W. FRAILEY,

CIVIL ACTION

Plaintiff,

Case No. 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

**NOTICE OF SERVICE OF NOTICE  
OF VIDEOTAPE DEPOSITION OF  
MANISH SAPRA, M.D., FOR USE AT  
TRIAL**

PETER W. FRAILEY,

Plaintiff,

Filed on behalf of Plaintiff:  
PETER W. FRAILEY

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

Counsel for Record for this Party:  
Richard G. Talarico, Esquire  
Pa I.D. # 93449

Woomer & Hall LLP  
2945 Banksville Road, Suite 200  
Pittsburgh, PA 15216-2749  
(412)388-0848

**JURY TRIAL DEMANDED**

FILED NO CC  
MOS 7/6/2004  
JAN 22 2008  
WAS  
William A. Shaw  
Prothonotary/Clerk of Courts

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

PETER W. FRAILEY,

CIVIL ACTION

Plaintiff,

Case No. 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

---

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

**NOTICE OF SERVICE NOTICE OF VIDEOTAPE DEPOSITION FOR  
USE AT TRIAL OF MANISH SAPRA, M.D.**

I hereby certify on January 17, 2008, that a true and correct copy of the foregoing *Notice of Videotape Deposition for Use at Trial of Manish Sapra, M.D.*, was served upon the following, by First-Class U.S. mail, postage prepaid:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Respectfully Submitted,

Woomer & Hall LLP

By:

Richard G. Talarico, Esquire  
PA I.D. # 93449  
Counsel for Plaintiff

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

PETER W. FRAILEY, :  
Plaintiff :  
: v. : No. 2004 - 00393 - CD

HARVEY J. MILLER, :  
Defendant :  
: v. :

PETER W. FRAILEY, :  
Plaintiff :  
: v. :

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;  
and  
NOAH HOSTETLER,  
Defendants

FILED  
M 11 2004  
FEB 04 2004  
2004  
CC

William A. Shaw  
Prothonotary/Clerk of Courts

**Praecipe for Hearing on Motion for  
Summary Judgment**

Filed on behalf of  
**Defendant, Darlene R. Bierly, Penns  
Valley Livestock Auction, Inc., a  
Pennsylvania Corporation, t/d/b/a  
Penns Valley Livestock Auction**

Counsel of Record for this Party:

James N. Bryant, Esq.  
Attorney-At-Law  
PA I.D. 14084

BRYANT & CANTORNA, P.C.  
107 East Main Street  
P. O. Box 551  
Millheim, PA 16854

(814) 349-5666

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

PETER W. FRAILEY,  
Plaintiff

v.

No. 2004 - 00393 - CD

HARVEY J. MILLER,  
Defendant

\*\*\*\*\*

PETER W. FRAILEY,  
Plaintiff

v.

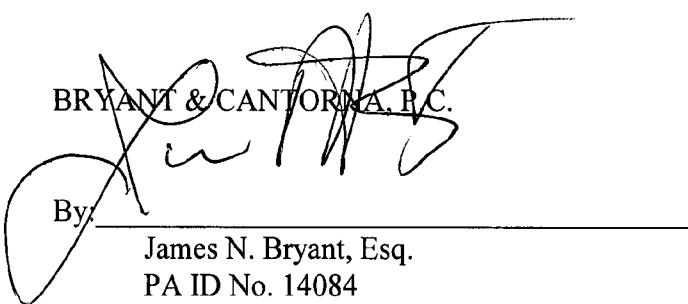
No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;  
and

NOAH HOSTETLER,  
Defendants

**PRAECIPE FOR HEARING**

Kindly schedule a hearing on the Motion for Summary Judgment filed on behalf of  
Darlene R. Bierly, Penns Valley Livestock Auction, Inc., a Pennsylvania Corporation t/d/b/a  
Penns Valley Livestock Auction.

  
BRYANT & CANTORNA, P.C.  
By: \_\_\_\_\_

James N. Bryant, Esq.  
PA ID No. 14084

Attorney for Defendant, Darlene R. Bierly,  
Penns Valley Livestock Auction, inc., a  
Pennsylvania Corporation t/d/b/a Penns  
Valley Livestock Auction  
107 East Main Street, P.O. Box 551  
Millheim, PA 16854  
(814) 349-5666  
(814) 349-2212 (fax)  
[Jnbryant1@verizon.net](mailto:Jnbryant1@verizon.net)

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

PETER W. FRAILEY,  
Plaintiff

v.

No. 2004 - 00393 - CD

HARVEY J. MILLER,  
Defendant

\*\*\*\*\*  
PETER W. FRAILEY,  
Plaintiff

v.

No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;

and

NOAH HOSTETLER,  
Defendants

**CERTIFICATE OF SERVICE**

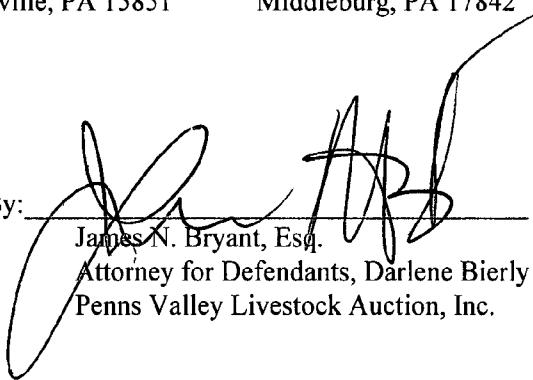
I hereby certify that a true and correct copy of the within **PRAECIPE FOR HEARING** was served by depositing the same with the United States Postal Service, postage prepaid, addressed to the following:

Robert B. Woomer, Esq.  
Richard G. Talarico, Esq.  
(Attorneys for Plaintiff)  
Woomer & Friday, LLP  
3220 West Liberty Avenue  
Suite 200  
Pittsburgh, PA 15216

Querino R. Torretti, Esq.  
(Attorney for Harvey Miller)  
P. O. Box 218  
Reynoldsville, PA 15851

Lori Hackenberg, Esq.  
(Attorney for Noah Hostetler)  
41 South Main Street  
Middleburg, PA 17842

By:

  
James N. Bryant, Esq.  
Attorney for Defendants, Darlene Bierly and  
Penns Valley Livestock Auction, Inc.

DATED: February 1, 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

CIVIL DIVISION

Plaintiff,

Docket No. : 2004 - 00393 - CD

vs.

HARVEY J. MILLER,

Defendant.

**RETURN OF SERVICE OF SUBPOENA  
TO PRODUCE DOCUMENTS OR  
THINGS FOR DISCOVERY PURSUANT  
TO RULE 4009.22 DIRECTED TO  
COMMISSIONER JEFFREY B. MILLER,  
CUSTODIAN OF RECORDS,  
PENNSYLVANIA STATE POLICE**

Filed on behalf of Plaintiff:  
Peter W. Frailey

Counsel of Record for this Party:  
Richard G. Talarico, Esquire  
Pa I.D. # 93449

Woomer & Hall LLP  
2945 Banksburg Road, Suite 200  
Pittsburgh, PA 15216-2749  
(412) 388-0848

**JURY TRIAL DEMANDED**

FILED NO  
M 10:54 AM  
FEB 11 2008  
WAM

William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Peter W. Frailey  
Plaintiff(s)

Vs.

Harvey J. Miller  
Defendant(s)

\*

\*

No. 2004-00393-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Commissioner Jeffrey B. Miller, Custodian of Records  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Complete accident report and investigative materials, including photographs, relative to the auto / Amish buggy accident which occurred along SR 410 in Jefferson County on 7/16/2002.

(Address) Richard G. Talarico, Esq  
2945 Banksburg Rd, Ste 200  
Pittsburgh, PA 15216

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

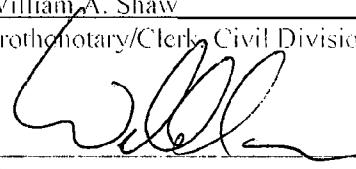
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Richard G. Talarico, Esquire  
ADDRESS: 2945 Banksburg Road, Suite 200  
Pittsburgh, PA 15216  
TELEPHONE: (412) 388-0848  
SUPREME COURT ID # 73449  
ATTORNEY FOR: Plaintiff, Peter W. Frailey

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

  
Deputy

**WILLIAM A. SHAW**  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

## RETURN OF SERVICE

On the 31st day of January, 2008, I Melissa K. Song  
served Commissioner Jeffrey B. Miller, Custodian of Records with the foregoing subpoena by:  
(Describe method of service) Certified US Mail, Return-Receipt Requested #7007 0710  
0004 8836 5440

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 2/7/08

Melissa K. Song  
Signature

WAH2 A MAUJIW  
visitation  
My Commisioner  
requestd  
for Mr. Miller  
3/10/08  
A. B. 6-2-08

## UNIT STATES POSTAL SERVICE

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

## SENDER: COMPLETE THIS SECTION

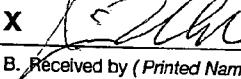
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Commissioner Jeffrey B. Miller  
Custodian of Records  
Pennsylvania State Police  
1800 Elmerton Avenue  
Harrisburg, PA 17110

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature



Agent  Addressee

## B. Received by (Printed Name)

## C. Date of Delivery

JAN 31 2008

, and ZIP+4 in this box •

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

## 3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

## 4. Restricted Delivery? (Extra Fee)

Yes

## Article Number

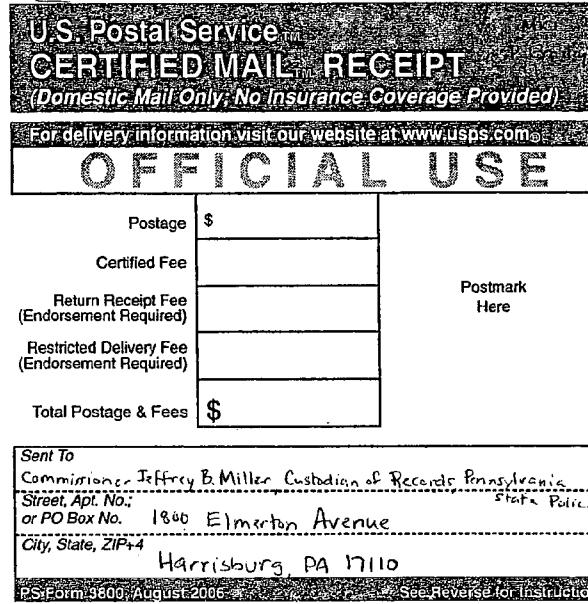
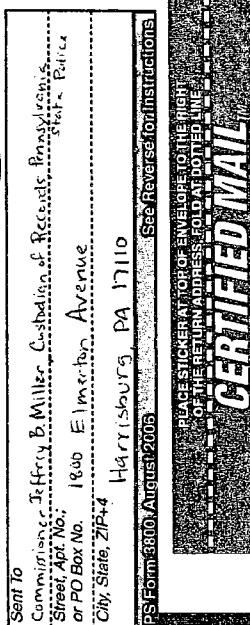
(Transfer from service label)

7007 0710 0004 8836 5440

3 Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



0445 9888 4000 0720

## COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Commissioner Jeffrey B. Miller  
Custodian of Records  
Pennsylvania State Police  
1800 Elmerton Avenue  
Harrisburg, PA 17110

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature



Agent  Addressee

## B. Received by (Printed Name)

## C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

## 3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes2. Article Number  
(Transfer from service label)

7007 0710 0004 8836 5440

[Home](#) | [Help](#) | [Sign In](#)[Track & Confirm](#)[FAQs](#)

## Track & Confirm

### Search Results

Label/Receipt Number: **7007 0710 0004 8836 5440**Status: **Delivered**

Your item was delivered at 10:12 AM on January 31, 2008 in  
HARRISBURG, PA 17110.

[Track & Confirm](#)

Enter Label/Receipt Number.

[Additional Details >](#)   [Return to USPS.com Home >](#)[Go >](#)

### Notification Options

#### Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

[Site Map](#)[Contact Us](#)[Forms](#)[Gov't Services](#)[Jobs](#)[Privacy Policy](#)[Terms of Use](#)[National & Premier Accounts](#)Copyright© 1999-2007 USPS. All Rights Reserved.   [No FEAR Act EEO Data](#)   [FOIA](#)

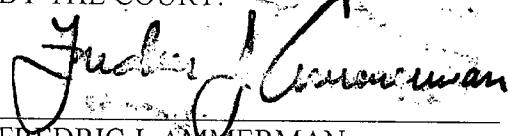
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

PETER W. FRAILEY :  
:  
vs. : No. 04-393-CD  
:  
HARVEY J. MILLER :  
:

ORDER

AND NOW, this 11<sup>th</sup> day of February, 2008, it is the ORDER of the Court that argument on Defendant, Darlene R. Bierly, Penns Valley Livestock Auction's Motion for Summary Judgment in the above-captioned matter shall and is hereby scheduled for Thursday, March 27, 2008 at 1:30 P.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA. One-half (1/2) hour has been allotted for this matter.

BY THE COURT:

  
\_\_\_\_\_  
FREDRIC J. AMMERMAN

President Judge

FILED  
019598745cc  
FEB 12 2008 Atty Bryant

William A. Shaw  
Prothonotary/Clerk of Courts

(60)

FILED

FEB 12 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 2/12/08

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney  Other

Special Instructions:

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

PETER W. FRAILEY,  
Plaintiff

v.

No. 2004 - 00393 - CD

HARVEY J. MILLER,  
Defendant

\*\*\*\*\*

PETER W. FRAILEY,  
Plaintiff

v.

No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;  
and

NOAH HOSTETLER,  
Defendants

**Certificate of Service**

Filed on behalf of  
**Defendant, Darlene R. Bierly,  
Penns Valley Livestock Auction,  
Inc., a Pennsylvania Corporation,  
t/d/b/a Penns Valley Livestock  
Auction**

Counsel of Record for this Party:

James N. Bryant, Esq.  
Attorney-At-Law  
PA I.D. 14084

BRYANT & CANTORNA, P.C.  
107 East Main Street  
P. O. Box 551  
Millheim, PA 16854

(814) 349-5666

FILED  
M 11/19/04  
FEB 15 2008  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

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

PETER W. FRAILEY,  
Plaintiff

v.

No. 2004 - 00393 - CD

HARVEY J. MILLER,  
Defendant

\*\*\*\*\*

PETER W. FRAILEY,  
Plaintiff

v.

No. 04 - 1076 - CD

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION;  
and  
NOAH HOSTETLER,  
Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Order issued by the Honorable Fredric J. Ammerman, dated February 11, 2008, was served by depositing the same with the United States Postal Service, postage prepaid, addressed to the following:

Robert B. Woomer, Esq.  
Richard G. Talarico, Esq.  
(Attorneys for Plaintiff)  
Woomer & Friday, LLP  
3220 West Liberty Avenue  
Suite 200  
Pittsburgh, PA 15216

Querino R. Torretti, Esq. Lori Hackenberg, Esq.  
(Attorney for Harvey Miller) (Attorney for Noah Hostetler)  
P. O. Box 218 41 South Main Street  
Reynoldsville, PA 15851 Middleburg, PA 17842

By:

James N. Bryant, Esq.

Attorney for Defendants, Darlene Bierly and  
Penns Valley Livestock Auction, Inc.

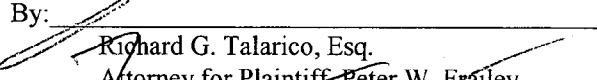
DATED: February 1, 2008

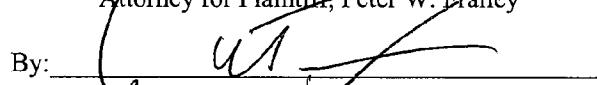
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

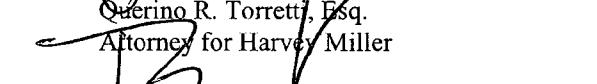
PETER W. FRAILEY, :  
Plaintiff :  
v. : No. 04-393-CD  
DARLENE R. BIERLY, PENNS VALLEY :  
LIVESTOCK AUCTION, INC., a :  
Pennsylvania Corporation t/d/b/a PENNS :  
VALLEY LIVESTOCK AUCTION :  
and :  
NOAH HOSTETLER, :  
Defendants :  
:

**STIPULATION**

AND NOW, by agreement of counsel of the parties, we hereby release DARLENE R. BIERLY, PENNS VALLEY LIVESTOCK AUCTION, INC., a Pennsylvania Corporation t/d/b/a PENNS VALLEY LIVESTOCK AUCTION, from the above-captioned lawsuit and this matter shall be marked DISCONTINUED as to DARLENE R. BIERLY, PENNS VALLEY LIVESTOCK AUCTION, INC., a Pennsylvania Corporation t/d/b/a PENNS VALLEY LIVESTOCK AUCTION.

By:   
Richard G. Talarico, Esq.  
Attorney for Plaintiff, Peter W. Frailey

By:   
Querino R. Torretti, Esq.  
Attorney for Harvey Miller

By:   
James N. Bryant, Esq.  
Attorney for Darlene R. Bierly, Penns Valley  
Livestock Auction, Inc., a Pennsylvania  
Corporation t/d/b/a Penns Valley Livestock  
Auction

FILED *cc*  
m. 11:00 a.m. Atty's: Bryant  
APR 01 2008 Torretti  
Talarico  
William A. Shaw *LM*  
Prothonotary/Clerk of Courts *envelopes provided*  
*by Atty Bryant*

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

PETER W. FRAILEY :  
vs. : No. 04-393-CD  
HARVEY J. MILLER :

FILED

APR 08 2008

0/21/08/✓

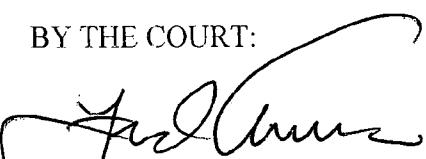
William A. Shaw  
Prothonotary/Clerk of Courts

SENT TO ATTY'S  
WOMEN  
TARRANT  
HAWKINS  
TATANCO  
(RE)

O R D E R

AND NOW, this 8 day of April, 2008, it is the ORDER of the Court that the three (3) day Civil Jury Trial scheduled to begin on Wednesday, April 16, 2008 shall be and is hereby rescheduled to begin on Thursday, April 17, 2008 at 9:00 A.M., at the Multi-Purpose Center, 650 Leonard Street, Clearfield, PA, with the Honorable Charles C. Brown, Senior Judge specially presiding. Two days have now been allotted for this matter.

BY THE COURT:

  
FREDRIC J. AMMERMAN

President Judge

18

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

PETER W. FRAILEY,  
Plaintiff

vs.

HARVEY J. MILLER,  
Defendant

\*  
\*  
\*  
\*

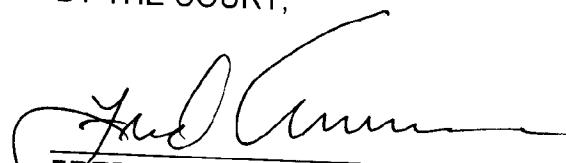
NO. 04-393-CD

**ORDER**

NOW, this 15<sup>th</sup> day of April, 2008, the Court notes the following that Senior Judge Charles Brown is presiding in the above-captioned case and that Judge Brown has requested that the trial scheduled for April 17 and 18, 2008 be continued and the case be relisted for jury selection.

In consideration of this, it is the ORDER of this Court that the trial scheduled for April 17 and 18, 2008 be continued. Jury Selection in this matter will be held on July 24, 2008 at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. Trial in this matter is scheduled for August 11 and 12, 2008 in Courtroom No. 2 of the Clearfield County Courthouse, Judge Charles Brown, Specially Presiding.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

**FILED**

04/16/2008  
APR 16 2008

William A. Shaw  
Prothonotary/Clerk of Courts

ICC Atty's:  
Woomer  
Torretti  
Hackenberg  
Talarico

(GP)

# FILED

APR 16 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 4/16/08

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PETER W. FRAILEY,

Plaintiff,

vs.

HARVEY J. MILLER

Defendant.

CIVIL DIVISION

Docket No. : 2004 - 00393 - CD

Code No.:

**PRAECIPE TO SETTLE AND  
DISCONTINUE**

PETER W. FRAILEY,

Plaintiff,

vs.

DARLENE R. BIERLY, PENNS VALLEY  
LIVESTOCK AUCTION, INC., a  
Pennsylvania Corporation t/d/b/a PENNS  
VALLEY LIVESTOCK AUCTION; and  
NOAH HOSTETLER,

Defendants.

Filed on behalf of Plaintiff:  
PETER W. FRAILEY

Counsel of Record for this Party:  
Richard G. Talarico, Esquire  
Pa I.D. # 93449

Woomer & Hall LLP  
2945 Banksville Road, Suite 200  
Pittsburgh, PA 15216-2749  
Tele # (412)388-0848  
Fax # (412)388-0946

**JURY TRIAL DEMANDED**

5 **FILED** No cc. 1Cet of  
m/135cm disc issued to  
MAY 13 2009 *RG* *RG* Talarico  
William A. Shaw  
Prothonotary/Clerk of Courts  
Copy to c/a

**CERTIFICATE OF SERVICE**

I hereby certify that on May 11, 2009, a true and correct copy of the foregoing  
*Praecipe to Settle and Discontinue* was served by First-Class U.S. Mail, postage prepaid,  
upon the following:

Querino R. Torretti, Esquire  
Law Offices of Querino R. Torretti  
P.O. Box 218  
Reynoldsville, PA 15851  
Attorney for Harvey Miller

Woomer & Hall LLP

By:

Richard G. Talarico, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

QC  
JL

**Peter W. Frailey**

Vs.  
**Harvey J. Miller**

**No. 2004-00393-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 May 13, 2009, marked:

Settled and discontinued

Record costs in the sum of \$85.00 have been paid in full by Robert B. Woomer Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of May A.D. 2009.

*William A. Shaw*

cm

William A. Shaw, Prothonotary