

05-477-CD

Tammy Barndt et al vs. M. Biggans

2005-477-CD

Tammy Barndt et al Michael Biggans

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

TAMMY BARNDT and ROGER BARNDT,

Plaintiffs,

vs.

MICHAEL BIGGANS,

Defendant.

CIVIL DIVISION

No.: 05-477-CD

COMPLAINT IN CIVIL  
ACTION

Filed on Behalf of:  
Tammy Barndt and Roger  
Barndt,  
Plaintiffs

Counsel of Record for this  
Party:

William J. Begley, Esquire  
PA. ID #17235  
BERGER AND GREEN, P.C.  
Firm #777  
5850 Ellsworth Avenue  
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Pittsburgh, PA 15232  
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FILED

APR 04 2005  
m/11:16/BD  
Sheriff  
Any pd. 85.60

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

TAMMY BARNDT and ROGER BARNDT,	:	CIVIL DIVISION
	:	
Plaintiffs,	:	No.:
	:	
vs.	:	
	:	
MICHAEL BIGGANS,	:	
	:	
Defendant.	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your 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  
230 East Market Street  
Clearfield, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

TAMMY BARNDT and ROGER BARNDT,	:	CIVIL DIVISION
	:	
Plaintiffs,	:	No.:
	:	
vs.	:	
	:	
MICHAEL BIGGANS,	:	
	:	
Defendant.	:	

COMPLAINT IN CIVIL ACTION

AND NOW come the Plaintiffs, Tammy Barndt and Roger Barndt, through their attorneys Berger and Green by William J. Begley, Esquire, and sets for their Complaint in Civil Action as follows:

1. The Plaintiffs, Tammy Barndt and Roger Barndt are wife and husband and are adult individuals who reside at 386 Hawk Lane, Julianne, Clearfield County, Pennsylvania 16844.

2. The Defendant, Michael Biggans, is an adult individual who resides at 1103 Cooper Avenue, Grassflat, Clearfield County, Pennsylvania 16839.

3. The events hereinafter set forth occurred on or about June 6, 2003 at approximately 10:50 a.m. on State Route 53, south of its intersection with State Route 2039 in Cooper Township, Clearfield County, Pennsylvania.

4. At that time and place, the Plaintiff, Tammy Barndt, was operating her 1993 Dodge Caravan in a southerly direction along State Route 53. At that time and place the Defendant, Michael Biggans was operating his 1986 Chevrolet Monte Carlo

when he suddenly pulled out of a driveway located on the west side of State Route 53 directly into the path of the Barndt vehicle and causing injuries and damages to the Plaintiff as hereinafter set forth.

5. The injuries and damages to the Plaintiff hereinbefore set forth were caused by and were the direct and proximate result of the carelessness, recklessness and negligence of the Defendant, generally and in the following particulars:

- a. In operating the vehicle at an excessive, dangerous and reckless speed under the circumstances;
- b. In failing to have the vehicle he was operating under proper and adequate control;
- c. In failing to yield the right of way to the vehicle driven by the Plaintiff;
- d. In failing to stop at the intersection;
- e. In continuing to operate his vehicle onto State Route 53 directly into the path of the vehicle driven by the Plaintiff when the Defendant knew or in the exercise of reasonable diligence should have known that operation of his vehicle onto State Route 53 would result in a collision;
- f. In being inattentive and failing to maintain a proper and adequate look out of the road and the condition of the traffic control around him;
- g. In failing to avoid the accident by applying his brakes;
- h. In failing to watch the road in front of and to the side of him;
- i. In failing to look where he was going;
- j. In failing to operate the steering, brake, and accelerator controls of the vehicle he was driving so as to keep it under control;
- k. In failing to yield the right of way to the Plaintiff;

- l. In operating his vehicle directly into the vehicle operated by the Plaintiff;
- m. In failing to observe with reasonable care of the traffic and road conditions including the location of the vehicle driven by the Plaintiff;
- n. In failing to avoid the accident by changing the direction of the vehicle he was operating;
- o. In failing to observe the vehicle that the Plaintiff was driving;
- p. In failing to yield the right of way to the Plaintiff's vehicle which was approaching on State Route 53;
- q. In entering State Route 53 from a private driveway without yielding the right of way to Plaintiff's vehicle which was approaching on Route 53 in violation of 75 Pa. C.S. §3324.

#### COUNT I

##### Tammy Barndt vs. Michael Biggans

6. Paragraphs 1 through 5 are incorporated by reference and made a part of this paragraph as if fully set forth herein.

7. As a result of the negligence of the Defendant as hereinafter more fully set forth, the Plaintiff, Tammy Barndt, sustained the following injuries:

- a. Multiple lacerations and contusions;
- b. Bilateral knee contusions;
- c. Left hand pain;
- d. 2cm laceration to left lower leg requiring sutures;

- e. Avulsion fracture of the distal right fibula;
- f. Swelling and ecchymosis over the dorsum of the left hand;
- g. Tenderness over 4th metacarpal phalangeal area;
- h. Large abrasion over right medial distal tibia;
- i. Tenderness over lateral malleolus;
- j. Crush injury of right ankle with possible occult fracture;
- k. Left hand contusion;
- l. Left knee contusion-pain and swelling;
- m. Chip fracture of the navicular tarsal bone;
- n. Chip fracture from the medial malleolus;
- o. Avulsion fracture of lateral aspect of talus;
- p. Severe sprain of right ankle;
- q. Thickening of articular cartilage in posterior patella laterally along with small osteochondral defects, joint effusion and fluid;
- r. Limited range of motion of left ankle;
- s. Posterior tibial tendonitis and infrapatella branch of saphenous nerve neuropraxia;
- t. Tibialis posterior tendon was attenuated distally consistent with a partial tear, plantar fasciitis and degenerative changes;
- u. Abnormal gait;
- v. Loss of arch to left foot;
- w. Left foot posterior tibial tendonitis acquired pes planovalgus and plantar fasciitis;

- x. Surgery consisting of exploration of the left posterior tibial tendon and peroneal tendons, tenosynovectomy of the posterior tibia tendon, tenosynovectomy peroneus longus, tenosynovectomy peroneus brevis and FDL and repair peroneus longus and brisement of the posterior tibial tendon;
- y. Chest pain - sternal;
- z. Left ankle pain - bilateral.

8. As a further direct and proximate result of the aforementioned negligence of the Defendant, the Plaintiff, Tammy Barndt, has in the past and may for an indefinite period of time in the future suffer the following:

- a. Pain, suffering and inconvenience;
- b. Fright, shock, worry, humiliation, anxiety, annoyance, irritation and other forms of mental distress;
- c. Impairment of general health, strength and vitality;
- d. Loss of earnings;
- e. Impairment of earning power;
- f. Loss of future earning capacity; and
- g. Loss of life's pleasures.

9. The Plaintiff, Tammy Barndt, believes and therefore avers that some or all of the above mentioned damages and injuries may be of a permanent and lasting nature.

10. As a further direct and proximate result of the aforementioned negligence of the Defendant, the Plaintiff, Tammy Barndt, has in the past and may for an indefinite



time period in the future be required to spend substantial sums of money for hospital bills, doctor bills, medical expenses and other incidental expenses in an attempt to effectuate a cure for herself as a result of the aforementioned incident.

WHEREFORE, Plaintiff seeks judgment against the Defendant, Michael Biggans, in an amount in excess of the arbitration limits of this Court.

## COUNT II

### Roger Barndt vs. Michael Biggans

11. Paragraphs 1 through 10 are incorporated by reference and made a part of the paragraph as if fully set forth herein.

12. As a direct and proximate result of the negligence of the Defendant as hereinabove more fully set forth, the Plaintiff/husband, Roger Barndt, has in the past lost the love, society, companionship, affection, services and consortium of his wife, the Plaintiff, Tammy Barndt, all of which may continue for an indefinite period of time.

13. In addition thereto, as a direct and proximate result of the negligence of the Defendant as hereinabove more fully set forth, the Plaintiff/husband, Roger Barndt, has in the past and may be required in the future to expend substantial sums of money for hospital bills, doctor bills, medical expenses and other incidental expenses in an attempt to effectuate a cure for his wife, the Plaintiff, Tammy Barndt, as a result of the incident complained of.

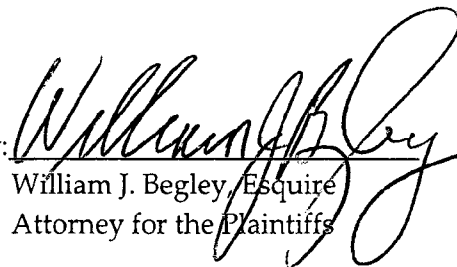
WHEREFORE, the Plaintiff, Roger Barndt, requests this Honorable Court to enter judgment in his favor and against the Defendant in an amount in excess of the arbitration limits of this Court.

**JURY TRIAL DEMANDED**

Respectfully submitted,

BERGER AND GREEN, P.C.

By:

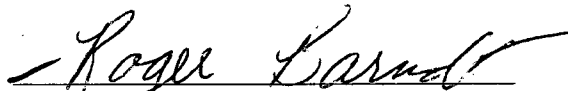


William J. Begley, Esquire  
Attorney for the Plaintiffs

VERIFICATION

We, Tammy Barndt and Roger Barndt, do hereby verify that the statements made herein are true and correct to the best of our knowledge, information and belief and that these statements are made subject to the penalties of 18 Pa. C.S.A., Section 4904 relating to unsworn falsification to authorities.

  
Tammy Barndt

  
Roger Barndt

DATE: 13-29-05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100369  
NO: 05-477-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: TAMMY BARNDT & ROGER BARNDT  
VS.  
DEFENDANT: MICHAEL BIGGANS

SHERIFF RETURN

NOW, April 25, 2005 AT 9:38 AM SERVED THE WITHIN COMPLAINT ON MICHAEL BIGGANS DEFENDANT AT 1103 COOPER AVE., GRASSFLAT, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOYCE BIGGANS, MOTHER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

FILED


APR 27 2005  
8:32:05 PM  
William A. Shaw  
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	BERGER	8945	10.00
SHERIFF HAWKINS	BERGER	8945	36.19

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

So Answers,

  
by Maury Hamr  
Chester A. Hawkins  
Sheriff

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

TAMMY BARNDT and ROGER  
BARNDT,

Plaintiff(s),

vs.

MICHAEL BIGGANS,

Defendant(s).

NO. 05 - 477- CD

Type of Pleading:

**PRAECIPE FOR APPEARANCE**

Filed on behalf of the Defendant,  
Michael Biggans

Counsel of Record for this Party:

Christopher M. Fleming  
PA I.D. #29300

Jacobs & Associates  
35 N. Main Street, Second Floor  
Greensburg, PA 15601-2401  
(724) 837-8484

JURY TRIAL DEMANDED

FILED

MAY 02 2005

W/1:00/10

William A. Shaw  
Prothonotary

no 6/6

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

TAMMY BARNDT and ROGER  
BARNDT,

NO. 05 - 477- CD

Plaintiff(s),

vs.

MICHAEL BIGGANS,

Defendant(s).

PRAECIPE FOR APPEARANCE

**TO THE PROTHONOTARY:**

Please enter my appearance on behalf of Defendant Michael Biggans in reference to the above-captioned matter.

JURY TRIAL DEMANDED.

JACOBS & ASSOCIATES

BY: 

CHRISTOPHER M. FLEMING, ESQUIRE  
35 N. Main Street, Second Floor  
Greensburg, PA 15601-2401  
(724) 837-8484

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

TAMMY BARNDT and ROGER BARNDT

Plaintiffs

vs.

MICHAEL BIGGANS,

Defendant.

CIVIL DIVISION

No.: 05-477-CD

PRAECIPE TO SETTLE AND  
DISCONTINUE

Filed on Behalf of:  
Tammy Barndt and Roger Barndt,  
Plaintiffs

Counsel of Record  
for this Party:

William J. Begley, Esquire  
PA I.D. #17235  
BERGER AND GREEN  
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Suite 200  
Pittsburgh, PA 15232  
(412) 661-1400

FILED *no cc*  
*m/3/11/05*  
JUN 02 2005 *@*

William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

I William J. Begley, Esquire hereby certify that a true and correct copy of the foregoing Praecipe to Settle and Discontinue has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 27th day of May, 2005.

Christopher M. Fleming, Esquire  
Jacobs & Associates  
35 N. Main Street  
Second Floor  
Greensburg, PA 15601-2401

BERGER AND GREEN, P.C.

By: 

William J. Begley, Esquire  
Attorney for the Plaintiff



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

**CIVIL DIVISION**

*COPY*

**Tammy Barndt  
Roger Barndt**

**Vs.  
Michael Biggans**

**No. 2005-00477-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 June 2, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by William J. Begley, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 2nd day of June A.D. 2005.

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William A. Shaw, Prothonotary