

2005-776-CD  
Julia Gigliotti vs. Howard Raybuck

2005-776-CD  
Julia Gigliotti v. Howard Raybuck

Date: 10/22/2009

Time: 11:41 AM

Page 1 of 1

## Clearfield County Court of Common Pleas

## ROA Report

Case: 2005-00776-CD

Current Judge: Fredric Joseph Ammerman

Julia M. Gigliotti vs. Howard Vaughn Raybuck

## Civil Other

| Date      |   | Judge                   |
|-----------|---|-------------------------|
| 5/27/2005 | New Case Filed.   | No Judge                |
|           | ✓ Filing: Praeclipe for Writ of Summons Paid by: Cherry, Paula M. (attorney for Gigliotti, Julia M.) Receipt number: 1901792 Dated: 05/27/2005 Amount: \$85.00 (Check) Two CC and Two writs to Attorney   | No Judge                |
| 7/15/2005 | Sheriff Return filed. July 15, 2005, Search Returned "Not Found". So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm.  | No Judge                |
| 7/20/2009 | ✓ Appearance, filed. Enter our appearance on behalf of Howard Vaughn Raybuck, the defendant in regard to the above captioned matter, signed by s/ Troy J. Harper Esq. No CC.  | No Judge                |
|           | ✓ Praeclipe for Rule to File Complaint, filed by s/ Troy J. Harper Esq. 1CC & rule to Atty Harper.  | No Judge                |
| 7/29/2009 | ✓ Certificate of Service, filed. That a certified copy of the Rule to File Complaint was served upon Toni M. Cherry Esq., on the 28th day of July 2009 by first class mail, filed by s/ Troy J. Harper Esq. No CC.  | No Judge                |
| 8/17/2009 | ✓ Complaint, filed by s/ Toni M. Cherry Esq. 2CC Atty T. Cherry.  | No Judge                |
| 9/1/2009  | ✓ Filing: Reissue Writ/Complaint Paid by: Cherry, Toni M. (attorney for Gigliotti, Julia M.) Receipt number: 1931004 Dated: 9/1/2009 Amount: \$7.00 (Check) For: Gigliotti, Julia M. (plaintiff)  | No Judge                |
|           | Praeclipe to Reissue Writ of Summons, filed by s/ Toni M. Cherry, Esquire. 2CC & 2 Reissued Writs to Sheriff.   | No Judge                |
| 9/3/2009  | ✓ Sheriff's Return, NOW, 9-3-09, Served the Within Summons on Howard Vaughn Raybuck, Def., by handing to Howard Vaughn Raybuck, Defendant. So Answers: Chester A. Hawkins, Sheriff, By: Megan L., Deputy.   | No Judge                |
| 9/8/2009  | ✓ Preliminary Objections, filed by s/ Troy J. Harper, Esquire. 1CC Atty. Harper   | No Judge                |
| 9/10/2009 | ✓ Certificate of Service, filed. That an original and one certified copy of the First Set of Interrogatories Directed to the Plaintiff and an original and one certified copy of the First Set of Request for Production of Documents Directed to the Plaintiff were served on the 9th day of September 2009 by first class mail to Toni M. Cherry Esq., filed by s/ Troy J. Harper Esq. No CC. | No Judge                |
| 9/23/2009 | ✓ Order, this 22nd day of Sept., 2009, argument on Preliminary Objections is scheduled for the 30th day of Oct., 2009, at 10:30 a.m. in Courtroom 1. By The Court, Fredric J. Ammerman, Pres. Judge. 2CC Atty. Harper   | Fredric Joseph Ammerman |
| 10/6/2009 | ✓ Certificate of Service, a certified copy of an Order of Court dated Sept. 22, 2009 was served on the Plaintiff on the 5th day of Oct., 2009, by First Class Mail, addressed to her attorney, Toni M. Cherry, Esquire. Filed by s/ Troy J. Harper, Esquire. No CC  | Fredric Joseph Ammerman |

10-28-09 ✓ Discontinuance

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JULIA M. GIGLIOTTI, :  
Plaintiff :  
vs. : No. 05 - 776 C.D.  
HOWARD VAUGHN RAYBUCK, :  
Defendant :  
:

**PRAECIPE FOR WRIT OF SUMMONS**

TO WILLIAM A. SHAW, PROTHONOTARY

Sir:

Please enter our appearance on behalf of Plaintiff, JULIA M. GIGLIOTTI, and issue a Writ of Summons in the above-captioned action against Defendant, HOWARD VAUGHN RAYBUCK, whose address is 55 Keen Circle, DuBois, Pennsylvania 15801.

FILED

0/23/33  
MAY 27 2005

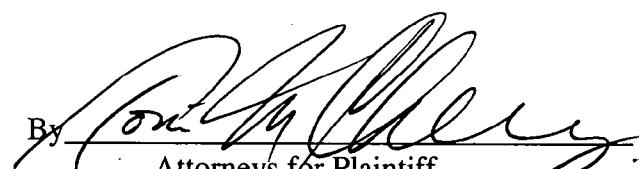
William A. Shaw  
Prothonotary/Clerk of Courts

acc2wnts  
to Atty

Atty pd. 85.00

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By 

Atorneys for Plaintiff  
One North Franklin Street  
P. O. Box 505  
DuBois, PA 15801  
Supreme Court No.: 30205

Date: May 27, 2005

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



**SUMMONS**

**Julia M. Gigliotti**

**Vs.**

**NO.: 2005-00776-CD**

**Howard Vaughn Raybuck**

TO: HOWARD VAUGHN RAYBUCK

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: 05/27/2005

---

William A. Shaw  
Prothonotary

Issuing Attorney:

Paula M. Cherry  
P. O. Box 505  
DuBois, PA 15801

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

Service # 1 of 1 Services

**Sheriff Docket # 100513**

JULIA M. GIGLIOTTI

**Case # 05-776-CD**

vs.

HOWARD VAUGHN RAYBUCK

**SHERIFF RETURNS**

NOW July 15, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO HOWARD VAUGHN RAYBUCK, DEFENDANT. ATTEMPTED, NOT HOME.

SERVED BY: /

**Return Costs**

| PURPOSE         | VENDOR  | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE       | GLEASON | 10108   | 10.00  |
| SHERIFF HAWKINS | GLEASON | 10108   | 60.54  |

Sworn to Before me This

So Answers,

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

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

**FILED**  
04:00 PM  
**JUL 15 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

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

**SUMMONS**

**Julia M. Gigliotti**

**Vs.**

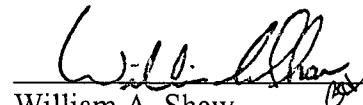
**NO.: 2005-00776-CD**

**Howard Vaughn Raybuck**

**TO: HOWARD VAUGHN RAYBUCK**

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: 05/27/2005

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

**Issuing Attorney:**

Paula M. Cherry  
P. O. Box 505  
DuBois, PA 15801

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JULIA M. GIGLIOTTI,

CIVIL ACTION - LAW

Plaintiff,

Number 776 - 2005 C. D.

vs.

Type of Case: Civil Division

HOWARD VAUGHN RAYBUCK,

Type of Pleading: Appearance

Defendant.

Filed on Behalf of: Defendant

Counsel of Record for this Party:  
Troy J. Harper

Supreme Court Number: 74753

DENNISON, DENNISON & HARPER  
293 Main Street  
Brookville, Pennsylvania 15825  
(814) 849-8316

5  
FILED  
JUL 20 2009  
NO CC  
WPS

William A. Shaw  
Prothonotary/Clerk of Courts

JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

\* In the Court of Common Pleas of

\* Clearfield County, Pennsylvania

\* Civil Action - Law

\*

\*

\*

\*

\* Number 776 - 2005 C. D.

APPEARANCE

TO THE PROTHONOTARY:

Enter our Appearance on behalf of Howard Vaughn Raybuck, the Defendant in  
regard to the above captioned matter.

DENNISON, DENNISON & HARPER

By

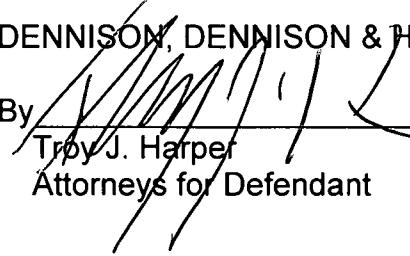
Troy J. Harper

Attorneys for Defendant

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Appearance was served on the 17<sup>th</sup> day of July, 2009, by United States Mail, First Class, postage prepared, addressed to the following:

Paula M. Cherry, Esq.  
Gleason, Cherry and Cherry, L.L.P.  
P. O. Box 505  
DuBois, PA 15801

DENNISON, DENNISON & HARPER  
By   
Troy J. Harper  
Attorneys for Defendant

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JULIA M. GIGLIOTTI,

CIVIL ACTION - LAW

Plaintiff,

Number 776 - 2005 C. D.

vs.

Type of Case: Civil Division

HOWARD VAUGHN RAYBUCK,

Type of Pleading: Praeclipe for Rule to  
File Complaint

Defendant.

Filed on Behalf of: Defendant

Counsel of Record for this Party:  
Troy J. Harper

Supreme Court Number: 74753

DENNISON, DENNISON & HARPER  
293 Main Street  
Brookville, Pennsylvania 15825  
(814) 849-8316

FILED 100% Rule  
JUL 20 2005 to Atty  
Harper  
William A. Shaw  
Prothonotary/Clerk of Courts

JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

\* In the Court of Common Pleas of  
\* Clearfield County, Pennsylvania  
\* Civil Action - Law

\*

\*

\*

\*

\* Number 776 - 2005 C. D.

PRAECIPE FOR RULE TO FILE COMPLAINT

TO WILLIAM SHAW, PROTHONOTARY:

Enter a Rule upon the Plaintiff to file a Complaint within twenty (20) days after service of the Rule, or judgment of non-pros will be entered.

DENNISON, DENNISON & HARPER

By

Troy J. Harper

Attorneys for Defendant

RULE:

TO THE PLAINTIFF:

You are ruled to file a Complaint within twenty (20) days after the service hereof or judgment of non-pros will be entered against you.

  
\_\_\_\_\_  
Prothonotary

Dated:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JULIA M. GIGLIOTTI,

CIVIL ACTION - LAW

Plaintiff,

Number 776 - 2005 CD

vs.

Type of Case: Civil Division

HOWARD VAUGHN RAYBUCK,

Type of Pleading: Certificate of Service

Defendant.

Filed on behalf of: Defendant

Counsel of Record for this Party:  
Troy J. Harper

Supreme Court ID Number: 74753

DENNISON, DENNISON & HARPER  
293 Main Street  
Brookville, PA 15825  
(814)849-8316

*S*  
**FILED**  
*7/10/09 8:46 AM* *NO*  
*JUL 29 2009* *CC*  
William A. Shaw  
Prothonotary/Clerk of Courts  


JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

- \* In the Court of Common Pleas of
- \* Clearfield County, Pennsylvania
- \* Civil Action - Law
- \*
- \*
- \*
- \*
- \*
- \*
- \* Number 776 - 2005 CD

#### **CERTIFICATE OF SERVICE**

I certify that a certified copy of the Rule to File Complaint was served upon the Plaintiff on the 28<sup>th</sup> day of July, 2009, by mailing the same, by United States Mail, First Class, Postage Prepaid, addressed to the following:

Toni M. Cherry, Esquire  
GLEASON, CHERRY & CHERRY, L.L.P.  
P. O. Box 505  
DuBois, PA 15801

DENNISON, DENNISON & HARPER

By

Troy J. Harper  
Attorneys for the Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JULIA M. GIGLIOTTI,  
Plaintiff  
vs.  
HOWARD VAUGHN RAYBUCK,  
Defendant

: No. 05 - 776 C.D.  
: Type of Case: CIVIL  
: Type of Pleading: COMPLAINT  
: Filed on Behalf of: JULIA M.  
: GIGLIOTTI, Plaintiff  
: Counsel of Record for this Party:  
: TONI M. CHERRY, ESQ.  
: Supreme Court No.: 30205  
: GLEASON, CHERRY AND  
: CHERRY, L.L.P.  
: Attorneys at Law  
: P.O. Box 505  
: One North Franklin Street  
: DuBois, PA 15801  
: (814) 371-5800

FILED  
01/05/2009 2CC  
AUG 17 2009 Atty  
T. Cherry  
William A. Shae  
Prothonotary/Clerk of Courts

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

JULIA M. GIGLIOTTI, :  
Plaintiff :  
vs. : No. 05 - 776 C.D.  
HOWARD VAUGHN RAYBUCK, :  
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  
Office of the Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641 Ext. 1303

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JULIA M. GIGLIOTTI,  
Plaintiff

vs. : No. 05 - 776 C.D.

HOWARD VAUGHN RAYBUCK,  
Defendant

**C O M P L A I N T**

AND NOW, comes the Plaintiff, JULIA M. GIGLIOTTI, by and through her attorneys, GLEASON, CHERRY AND CHERRY, L.L.P., and brings this action against HOWARD VAUGHN RAYBUCK, Defendant, to recover damages upon a cause of action whereof the following are statements:

1. Plaintiff, JULIA M. GIGLIOTTI, is an adult individual who resides at 1100 West Long Avenue, DuBois, Clearfield County, Pennsylvania 15801.
2. The Defendant, HOWARD VAUGHN RAYBUCK, is an adult individual who resides at 55 Keen Circle, DuBois, Clearfield County, Pennsylvania 15801
3. The events hereinafter complained of occurred on or about August 8, 2003, at approximately 7:00 p.m. in the Township of Sandy, Clearfield County, Pennsylvania.
4. On that date, time and place aforesaid, Defendant, HOWARD VAUGHN RAYBUCK, was the operator of a 2003 Ford Crown Victoria, Title No. 5803 2695 101RA, Vehicle Registration No. 2FAFP74W43X122384 owned by the Defendant and his wife which he was then and there operating in the parking lot of the Eat N Park Restaurant located on the westerly side of PA State Route 255 North in the Township of Sandy, Clearfield County, Pennsylvania.

6. That on the date above-mentioned, Plaintiff, JULIA M. GIGLIOTTI, had been riding as a passenger in the car being then and there driven by Defendant, HOWARD VAUGHN RAYBUCK, when Defendant, his wife and Plaintiff had gone to dinner at the Eat N Park Restaurant and she was free from all fault and blame for said accident and her injuries were the result solely of the acts of negligence of Defendant, HOWARD VAUGHN RAYBUCK, as herein set forth because she warned the Defendant that she was "not in the car" as he began to drive it away.

7. That at the date, time and place above-stated, Defendant, HOWARD VAUGHN RAYBUCK, so negligently and unlawfully operated his vehicle that, as a direct result thereof, he started said vehicle and began to exit the parking lot of the Eat N Park Restaurant without insuring that his passenger, JULIA M. GIGLIOTTI, Plaintiff herein, was fully situated inside of his vehicle and without insuring that the rear passenger door was closed and as a result, he began to drive away prior to the time that the said Plaintiff had gotten into the vehicle, causing the force of his acceleration of his vehicle to knock Plaintiff over and out of the vehicle and despite Plaintiff's cries that she was not inside the vehicle, Defendant did continue to accelerate causing his vehicle to run over the Plaintiff and to cause her to sustain damages and serious injuries which are hereinafter more fully set forth.

8. The injuries and damages hereinafter set forth were caused by and were the direct and proximate result of the negligence of the Defendant, HOWARD VAUGHN RAYBUCK, as aforesaid, generally and in the following particulars:

- (a) Failing to maintain a proper lookout while operating his vehicle;
- (b) Failing to observe the location and whereabouts of the Plaintiff, JULIA M. GIGLIOTTI;

- (c) Failing to insure that Plaintiff, JULIA M. GIGLIOTTI, was safely inside of his vehicle with the passenger door shut before proceeding;
- (d) Failing to insure that Plaintiff, JULIA M. GIGLIOTTI, was clear of the path of his vehicle before proceeding forward;
- (e) Failing to heed the cry of the Plaintiff that "I'm not in the car" and stopping said vehicle before the left rear tire ran over the Plaintiff;
- (f) Failing to maintain proper and adequate control of his vehicle;
- (g) Failing to use proper braking procedures;
- (h) Operating his vehicle at a time and in a manner when it was unsafe to do so;
- (i) Failing to use proper and adequate skill and judgment under the circumstances;
- (j) Failing to use due care under the circumstances;
- (k) Negligence at law; and
- (l) Such other acts of negligence as may hereafter be discovered.

9. At the time the injuries of the said JULIA M. GIGLIOTTI were sustained, the said Plaintiff was free from all fault and blame as a passenger in the process of entering the vehicle driven by Defendant and her injuries were the result solely of his acts of negligence.

10. By reason of the negligence of the Defendant, HOWARD VAUGHN RAYBUCK, the Plaintiff, JULIA M. GIGLIOTTI, sustained trauma to her body and a severe laceration to her right leg of over 40 centimeters in length requiring 72 stitches and resulting in excruciating pain and permanent scarring.

11. By reason of the aforesaid injuries, she was rendered, sick, sore, lame and prostrate and disordered for which she had to receive treatment and for which she is still receiving treatment and for which she may continue to receive treatment for some time in the future.

12. As a result of said injuries, the Plaintiff has suffered and will continue to suffer physical anguish and pain and suffering and inconvenience in the future.

13. As a result of said injuries, the Plaintiff has suffered shock to her nerves and nervous system and has suffered mental anguish and emotional distress and may continue to so suffer for an indefinite time in the future.

14. As a result of said injuries, the Plaintiff has been and will be deprived in the future of the ordinary pleasures of life.

15. As a direct result of the negligence of the Defendant, the Plaintiff suffered great pain and agony and has been and probably will in the future be hindered and prevented from attending to her usual and daily duties.

16. Solely because of the negligence of the Defendant, HOWARD VAUGHN RAYBUCK, Plaintiff, JULIA M. GIGLIOTTI, has been and probably will in the future be, obliged to expend large and various sums of money for medicine and medical attention in and about endeavoring to treat and cure herself of the injuries sustained as aforesaid.

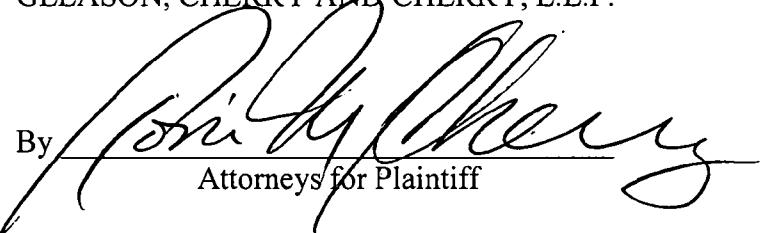
WHEREFORE, the Plaintiff, JULIA M. GIGLIOTTI, claims damages of the Defendant, HOWARD VAUGHN RAYBUCK, in excess of TWENTY-FIVE THOUSAND DOLLARS

(\$25,000.00), together with delay damages and costs of suit.

Respectfully submitted,

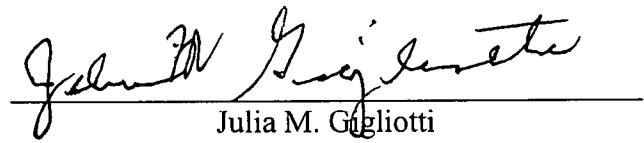
GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
John H. Cherry  
Attorneys for Plaintiff

## VERIFICATION

I, JULIA M. GIGLIOTTI, Plaintiff herein, verify that the statements made in this Complaint 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.



---

Julia M. Gigliotti

Dated: August 17, 2009

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

JULIA M. GIGLIOTTI, :  
Plaintiff :  
vs. : No. 05 - 776 C.D.  
HOWARD VAUGHN RAYBUCK, :  
Defendant :  
:

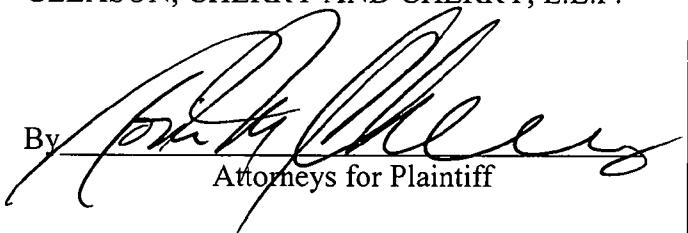
**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of August, 2009, a true and correct copy of the Complaint filed by Plaintiff was served upon TROY J. HARPER, ESQ., counsel for Defendant, by mailing the same to him by United States First Class Mail, Postage Prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

TROY J. HARPER, ESQ.  
Dennison, Dennison & Harper  
Attorneys at Law  
293 Main Street  
Brookville, PA 15825

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
Attorneys for Plaintiff

Dated: August 17, 2009

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

JULIA M. GIGLIOTTI, :  
Plaintiff :  
: :  
vs. : No. 05 - 776 C.D.  
: :  
HOWARD VAUGHN RAYBUCK, :  
Defendant :  
: :

**PRAECIPE TO REISSUE WRIT OF SUMMONS**

TO WILLIAM A. SHAW, PROTHONOTARY

Sir:

Kindly reissue the Writ of Summons in the above-captioned matter for failure of the Sheriff to serve the same upon the Defendant at his address at 55 Keen Circle, DuBois, Pennsylvania 15801, within the time allowed or to notify Plaintiff of such failure by mail as required by Pa. R.C.P. 401(g).

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Attorneys for Plaintiff  
One North Franklin Street  
P. O. Box 505  
DuBois, PA 15801  
Supreme Court No.: 30205

Date: September 1, 2009

FILED  
S 03:53 PM SEP 01 2009 2CC02 Reissued  
William A. Shaw  
Prothonotary/Clerk of Courts  
Atty pd. 7.00  
(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
NO: 05-776-CD

JULIA M. GIGLIOTTI

vs SERVICE # 1 OF 1

HOWARD VAUGHN RAYBUCK

SUMMONS

SERVE BY: 10/01/2009

HEARING:

PAGE: 106120

DEFENDANT: HOWARD VAUGHN RAYBUCK

ADDRESS: 55 KEEN CIRCLE  
DUBOIS, PA 15801

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

\_\_\_\_\_

\_\_\_\_\_

**SHERIFF'S RETURN**

NOW, 9-3-09 AT 9:02 AM PM SERVED THE WITHIN

SUMMONS ON HOWARD VAUGHN RAYBUCK, DEFENDANT

BY HANDING TO Howard Vaughn Raybuck, Defendant

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 55 Keen Circle, Dubois PA 15801

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

SUMMONS FOR HOWARD VAUGHN RAYBUCK

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO HOWARD VAUGHN RAYBUCK

REASON UNABLE TO LOCATE \_\_\_\_\_

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Megan Laughard Deputy Signature

Megan Laughard Print Deputy Name

DAY OF September 2009

WA

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JULIA M. GIGLIOTTI,

CIVIL ACTION - LAW

Plaintiff,

Number 2005 - 776 C.D.

vs.

HOWARD VAUGHN RAYBUCK,

Type of Case: Civil Division

Defendant.

Type of Pleading: Preliminary Objections

Filed on behalf of: Defendant

Counsel of Record for this Party:

Troy J. Harper  
Supreme Court Number: 74753

John C. Dennison, II  
Supreme Court Number: 29408

DENNISON, DENNISON & HARPER  
293 Main Street  
Brookville, Pennsylvania 15825  
(814) 849-8316

FILED  
318:4741  
SEP 03 2009  
S Atty Harper  
William A. Shaw  
Prothonotary/Clerk of Courts  
GJD

JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

\* In the Court of Common Pleas of  
\* Clearfield County, Pennsylvania  
\*  
\* Civil Action - Law  
\*  
\*  
\*  
\* Number 2005 - 776 C.D.

### **PRELIMINARY OBJECTIONS TO THE PLAINTIFF'S COMPLAINT**

AND NOW, comes the Defendant, HOWARD VAUGHN RAYBUCK, by his attorneys, Dennison, Dennison & Harper, who file the following Preliminary Objections to the Plaintiff's Complaint:

1. A Praecept for Writ of Summons was filed in the above-captioned matter on May 27, 2005.
2. A Writ of Summons was issued by the Prothonotary of Clearfield County on May 27, 2005.
3. The Writ of Summons was thereafter delivered to the Clearfield County Sheriff for an attempt at service on the Defendant, Howard Vaughn Raybuck.
4. On July 15, 2005, the Sheriff of Clearfield County filed a Sheriff's Return stating in relevant part that "After diligent search in my bailiwick I returned the within summons "NOT FOUND" as to Howard Vaughn Raybuck, Defendant. Attempted, not home."
5. Thereafter, no docket activity occurred in this matter until the within counsel for the Defendant filed a Praecept for Appearance on or about July 17, 2009.

6. On or about July 20, 2009, counsel for the Defendant filed a Praecept for Rule to File Complaint.

7. On July 20, 2009, the Prothonotary of Clearfield County issued a Rule to File Complaint.

8. Said Rule to File Complaint was served on the Plaintiff on or about July 28, 2009.

9. On or about August 17, 2009, the Plaintiff filed a Complaint, and said Complaint was served on counsel for the Defendant by regular mail.

10. The Plaintiff's Complaint alleges that this matter arises out of an accident which occurred while the Plaintiff was attempting to get into the Defendant's vehicle on or about August 8, 2003, in the Eat N' Park parking lot in Sandy Township, Clearfield County, Pennsylvania.

#### **I. MOTION TO STRIKE COMPLAINT - LACK OF SERVICE OF ORIGINAL PROCESS**

11. The averments of Paragraphs 1 through 10 of these Preliminary Objections are incorporated herein by reference thereto.

12. Pa.R.C.P. 400 provides in relevant part that:

(a) except as provided in subdivisions (b) and (c) and in Rule 400.1 and 1930.4, original process shall be served within the Commonwealth only by the sheriff.

13. The Plaintiff in this matter failed to have the original process, i.e., the Writ of Summons served upon the Defendant, Howard Vaughn Raybuck, by the Sheriff of Clearfield County pursuant to Pa.R.C.P. 400, and said Writ of Summons has never been served upon the Defendant, Howard Vaughn Raybuck.

14. Assuming the Plaintiff's Complaint is considered original process, it has never been served upon the Defendant, Howard Vaughn Raybuck, by a duly authorized representative of the Clearfield County Sheriff's Department pursuant to Pa.R.C.P. 400.

15. The Defendant, Howard Vaughn Raybuck, has never been served with original process in this case by the Sheriff of Clearfield County pursuant to Pa.R.C.P. 400, and service is therefore ineffective.

**WHEREFORE**, the Defendant, Howard Vaughn Raybuck, respectfully requests that this Court strike and dismiss the Plaintiff's Complaint with prejudice or, in the alternative, direct the Plaintiff to have original process served on the Defendant pursuant to and in compliance with Pa.R.C.P. 400.

## **II. MOTION TO STRIKE COMPLAINT - LACK OF JURISDICTION**

16. The averments of Paragraphs 1 through 15 of these Preliminary Objections are incorporated herein by reference thereto.

17. Due to the lack of service of original process on the Defendant, Howard Vaughn Raybuck, set forth above, this Court does not have jurisdiction over the Defendant, Howard

Vaughn Raybuck. Azzarrelli v. City of Scranton, \_\_ Pa. Commw. \_\_, 655 A.2d 648 (1995); Frycklund v. Way, 410 Pa. Super. 347, 599 A.2d 1332 (1991); Sharp v. Valley Forge Med. Center, 422 Pa. 124, 221 A.2d 185 (1966).

**WHEREFORE**, the Defendant, Howard Vaughn Raybuck, respectfully requests that this Court strike and dismiss the Plaintiff's Complaint with prejudice.

### **III. MOTION TO STRIKE / MOTION FOR MORE SPECIFIC PLEADING**

18. The averments of Paragraphs 1 through 10 of these Preliminary Objections are incorporated herein by reference thereto.

19. Pa.R.C.P. 1019(a) provides that the material facts on which a cause of action is based must be stated in concise and summary form.

20. Paragraph 8 of the Plaintiff's Complaint alleges, "The injuries and damages hereinafter set forth were caused by and were the direct and proximate result of the negligence of the Defendant, HOWARD VAUGHN RAYBUCK, as aforesaid, generally and in the following particulars:..."

21. The use of the term "generally" in Paragraph 8 of the Plaintiff's Complaint lacks sufficient specificity inasmuch as said language connotes some other conduct not specifically mentioned in the Plaintiff's Complaint thereby failing to apprise the Defendant, Howard Vaughn Raybuck, of all of the issues to be litigated. Connor v. Allegheny General Hosp., 501 Pa. 306, 461 A.2d 600 (1983).

22. Paragraph 8 of the Plaintiff's Complaint then sets forth subparagraphs (a) through (l)

which attempt to set forth specific alleged items of negligent conduct by the Defendant, Howard Vaughn Raybuck.

23. Subparagraph (i) of Paragraph 8 of the Plaintiff's Complaint alleges that the Defendant, Howard Vaughn Raybuck's, negligent conduct consisted of "Failing to use proper and adequate skill and judgment under the circumstances."

24. Subparagraph (j) of Paragraph 8 of the Plaintiff's Complaint alleges that the Defendant, Howard Vaughn Raybuck's, negligent conduct consisted of "Failing to use due care under the circumstances."

25. Subparagraph (k) of Paragraph 8 of the Plaintiff's Complaint alleges that the Defendant, Howard Vaughn Raybuck's, negligent conduct consisted of "Negligence at law"

26. The averments of Subparagraph (i), (j) and (k) of Paragraph 8 of the Plaintiff's Complaint completely fail to allege with any specificity whatsoever conduct or omissions by the Defendant. Rather, the averments of the Subparagraphs are the exact type of open-ended pleading which the Pennsylvania Rules of Civil Procedure prohibit and are no more than general averments of alleged negligence, recklessness and carelessness that are vague and lack sufficient specificity to apprise the Defendant, Howard Vaughn Raybuck, of all of the issues to be litigated.

Connor v. Allegheny General Hosp., 501 Pa. 306, 461 A.2d 600 (1983).

**WHEREFORE**, the Defendant, Howard Vaughn Raybuck respectfully requests that the Court strike the Plaintiff's Complaint or, in the alternative, strike the term "generally" and subparagraphs (i), (j) and (k) from Paragraph 8 of the Plaintiff's Complaint or, in the alternative,

order the Plaintiff to amend her Complaint to include more specific pleadings relating to the general averments contained in Paragraph 8 and subparagraph (i), (j) and (k) thereof.

DENNISON, DENNISON & HARPER

By

Troy J. Harper

Attorneys for Defendant

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Preliminary Objections were served on the 31<sup>st</sup> day of August, 2009, by United States Mail, First Class, Postage Prepaid, addressed to the following:

Toni M. Cherry, Esq.  
Gleason, Cherry and Cherry, L.L.P.  
P.O. Box 505  
One North Franklin Street  
DuBois, Pennsylvania 15801

DENNISON, DENNISON & HARPER

By

Troy J. Harper  
Attorneys for the Defendant

JULIA M. GIGLIOTTI,  
Plaintiff,  
vs.

HOWARD VAUGHN RAYBUCK,  
Defendant.

\* In the Court of Common Pleas of  
\* Clearfield County, Pennsylvania  
\*  
\* Civil Action - Law  
\*  
\*  
\* Number 2005 - 776 C.D.

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2009, the  
Defendant, Howard Vaughn Raybuck, having filed Preliminary Objections to the Plaintiff's  
Complaint, and upon consideration of the same;

**IT IS HEREBY ORDERED** that said Preliminary Objections are granted and the  
Plaintiff's Complaint is stricken with prejudice.

**BY THE COURT,**

---

J.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JULIA M. GIGLIOTTI

CIVIL ACTION - LAW

Plaintiff,

Number 2005 - 776 C.D.

vs.

Type of Case: Civil Division

HOWARD VAUGHN RAYBUCK,

Type of Pleading: Certificate of Service

Defendant.

Filed on behalf of: Defendant,  
Howard Vaughn Raybuck

Counsel of Record for this Party:

Troy J. Harper  
Supreme Court Number: 74753

John C. Dennison, II  
Supreme Court Number: 29408

DENNISON, DENNISON & HARPER  
293 Main Street  
Brookville, Pennsylvania 15825  
(814) 849-8316

FILED  
M 19 2009  
SEP 10 2009  
NO CC  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

\* In the Court of Common Pleas of  
\* Clearfield County, Pennsylvania  
\*  
\* Civil Division  
\*  
\*  
\*  
\* Number 2005 - 776 C.D.

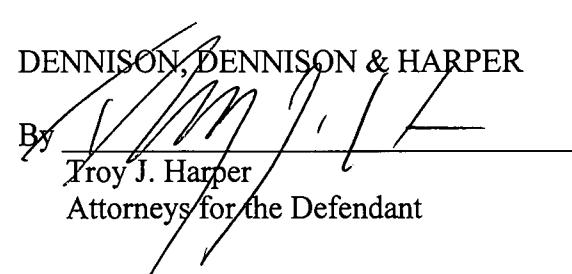
### **CERTIFICATE OF SERVICE**

I certify that an original and one certified copy of the First Set of Interrogatories Directed to the Plaintiff and an original and one certified copy of the First Set of Request for Production of Documents Directed to the Plaintiff were served on the 9<sup>th</sup> day of September, 2009, by United States Mail, First Class, postage prepaid, addressed to the following:

Toni M. Cherry, Esquire  
GLEASON, CHERRY & CHERRY, L.L.P.  
PO Box 505  
One North Franklin Street  
DuBois, PA 15801

DENNISON, DENNISON & HARPER

By

  
Troy J. Harper  
Attorneys for the Defendant

JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

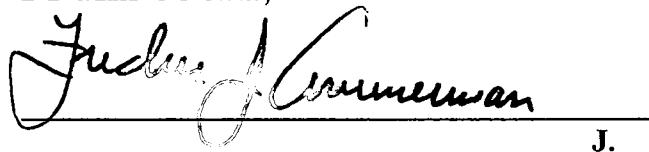
- \* In the Court of Common Pleas of
- \* Clearfield County, Pennsylvania
- \*
- \* Civil Action - Law
- \*
- \*
- \*
- \*
- \* Number 2005 - 776 C.D.

**ORDER**

AND NOW, this 22<sup>nd</sup> day of September, 2009, the Defendant, Howard Vaughn Raybuck, having filed Preliminary Objections to the Plaintiff's Complaint;

**IT IS HEREBY ORDERED** that an oral argument on said Preliminary Objections is scheduled for the 30<sup>th</sup> day of October, 2009, at 10:30 A.m. In Courtroom Number 1 of the Clearfield County Courthouse.

BY THE COURT,

  
\_\_\_\_\_  
J.

FILED 2cc  
09/33/09 Atty Harper  
S SEP 23 2009  
William A. Shaw  
Prothonotary/Clerk of Courts  
(60)

**FILED**

**SEP 23 2009**

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

DATE: 9/23/09

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:

FILED

OCT 06 2009  
S m/10:10a  
William A. Shaw  
Prothonotary/Clerk of Courts  
No. 776 61

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JULIA M. GIGLIOTTI,

CIVIL ACTION - LAW

Plaintiff,

Number 776 of 2005, C. D.

vs.

Type of Case: Civil Division

HOWARD VAUGHN RAYBUCK,

Type of Pleading: Certificate of Service

Defendant.

Filed on Behalf of: Defendant

Counsel of Record for this Party:  
Troy J. Harper

Supreme Court Number: 74753

DENNISON, DENNISON & HARPER  
293 Main Street  
Brookville, Pennsylvania 15825  
(814) 849-8316

JULIA M. GIGLIOTTI,

Plaintiff,

vs.

HOWARD VAUGHN RAYBUCK,

Defendant.

\* In the Court of Common Pleas of  
\* Clearfield County, Pennsylvania  
\* Civil Action - Law

\*

\*

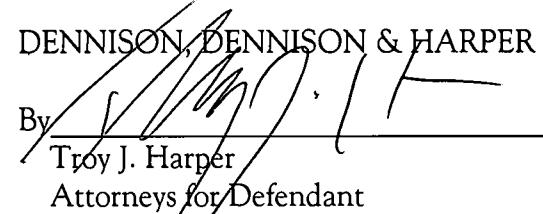
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\*

\* Number 776 - 2005 C. D.

#### CERTIFICATE OF SERVICE

I certify that a certified copy of an Order of Court dated September 22, 2009, entered by The Honorable Fredric J. Ammerman in regard to the above entitled matter was served on the Plaintiff, Julia M. Gigliotti, on the 5<sup>th</sup> day of October, 2009, by United States Mail, First Class, postage prepaid, addressed to her attorney, Toni M. Cherry, Esq., Gleason, Cherry and Cherry, L.L.P., P. O. Box 505, One North Franklin Street, DuBois, PA 15801.

DENNISON, DENNISON & HARPER  
By   
Troy J. Harper  
Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JULIA M. GIGLIOTTI, : No. 05 - 776 C.D.  
Plaintiff :  
vs. : Type of Case: CIVIL  
HOWARD VAUGHN RAYBUCK, : Type of Pleading: PRAECIPE TO  
Defendant : WITHDRAW COMPLAINT  
: Filed on Behalf of: JULIA M.  
: GIGLIOTTI, Plaintiff  
: Counsel of Record for this Party:  
: TONI M. CHERRY, ESQ.  
: Supreme Court No.: 30205  
: GLEASON, CHERRY AND  
: CHERRY, L.L.P.  
: Attorneys at Law  
: P.O. Box 505  
: One North Franklin Street  
: DuBois, PA 15801  
: (814) 371-5800

FILED 1cc & 1Clerk of  
7/10/10 am disc issued to  
OCT 28 2009 447 T. Cherry  
S William A. Shaw  
Prothonotary/Clerk of Courts  
15  
COPY b/c/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JULIA M. GIGLIOTTI, :  
Plaintiff :  
:  
vs. : No. 05 - 776 C.D.  
:  
HOWARD VAUGHN RAYBUCK, :  
Defendant :  
:

**PRAECIPE TO WITHDRAW COMPLAINT**

TO WILLIAM A. SHAW, PROTHONOTARY

Sir:

Kindly mark the Complaint in the above-captioned case withdrawn and the action discontinued.

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Attorneys for Plaintiff

Date: October 27, 2009

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JULIA M. GIGLIOTTI, :  
Plaintiff :  
:  
vs. : No. 05 - 776 C.D.  
:  
HOWARD VAUGHN RAYBUCK, :  
Defendant :  
:

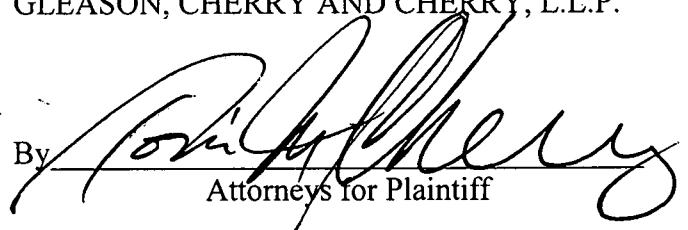
**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of October, 2009, a true and correct copy of the Praeclipe to Withdraw Complaint filed by Plaintiff was served upon TROY J. HARPER, ESQ., counsel for Defendant, by mailing the same to him by United States First Class Mail, Postage Prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

TROY J. HARPER, ESQ.  
Dennison, Dennison & Harper  
Attorneys at Law  
293 Main Street  
Brockville, PA 15825

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
Troy J. Harper  
Attorneys for Plaintiff

Dated: October 27, 2009

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**Julia M. Gigliotti**

Vs.  
**Howard Vaughn Raybuck**

**No. 2005-00776-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 October 28, 2009, marked:

Complaint withdrawn and action discontinued

Record costs in the sum of \$92.00 have been paid in full by Toni M. Cherry Esq .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 28th day of October A.D. 2009.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 106120  
NO: 05-776-CD  
SERVICES 1

SUMMONS

PLAINTIFF: JULIA M. GIGLIOTTI  
VS.  
DEFENDANT: HOWARD VAUGHN RAYBUCK

SHERIFF RETURN

RETURN COSTS

| Description     | Paid By | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE       | GLEASON | 14169   | 10.00  |
| SHERIFF HAWKINS | GLEASON | 14169   | 30.34  |

FILED  
02/14/10  
FEB 22 2010

William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2010



Chester A. Hawkins  
Sheriff