

07-107-CD

David Barr et al vs LaRue Krach et al

David Barr et al vs LaRue Krach et al  
2007-107-CD

Date: 2/15/2008

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 10:05 AM

**ROA Report**

Page 1 of 2

Case: 2007-00107-CD

Current Judge: Paul E. Cherry

David W. Barr, Rita M. Barr vs. LaRue A. Krach, Marilyn J. Krach

**Civil Other**

Date		Judge
1/23/2007	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Mohney, Christopher E. (attorney for Barr, David W.) Receipt number: 1917322 Dated: 1/23/2007 Amount: \$85.00 (Check) 1 CC Atty and 2CC shff.	No Judge
2/27/2007	✓ Consent to Amend Complaint, filed by s/ Christopher E. Mohney, Esquire. No CC	Paul E. Cherry
	✓ Consent Order, NOW, this 26th day of Feb., 2007, upon consideration of the Consent to Amend Complaint, Ordered that Plaintiffs shall have 20 days from notice of entry of this Order within which to file the Amended Complaint attached to the Consent to Amend Complaint. By The Court, /s/ Paul E. Cherry, Judge. 1CC Atty. Mohney	No Judge
3/5/2007	✓ Amended Complaint, filed by Atty. Mohney 1 Cert. to Atty.	No Judge
4/25/2007	✓ Sheriff Return, January 31, 2007 at 11:50 am Served the within Complaint on LaRue A. Krach. January 31, 2007 at 11:50 am Served the within Complaint on Marilyn J. Krach. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Barr \$60.88	No Judge
5/3/2007	✓ Answer to Amended Complaint and New Matter, filed by s/ R. Denning Gearhart, Esquire. 3CC Atty. Gearhart	No Judge
	✓ Certificate of Service, filed. Served a certified copy of the Answer to Amended Complaint and New Matter filed in the above captioned matter on the Plaintiffs through Plaintiff's Attorney, Christopher E. mohney Esq, filed by s/ R. Denning Gearhart Esq. NO CC.	No Judge
5/18/2007	✓ Reply to New Matter, filed by s/ Christopher E. Mohney, Esquire. No CC	No Judge
6/13/2007	✓ Certificate of Service, filed. Served a true and correct copy of the Defendant's Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents filed in the above-captioned matter on the Plaintiffs, by and through their attorney, Christopher E. Mohney Esq., filed by s/ R. Denning Gearhart Esq. 2CC Atty Gearhart.	No Judge
10/1/2007	✓ Motion For Partial Summary Judgment, filed by s/ Cristoper MII Mohney, Esquire. 3CC Atty. Mohney	No Judge
10/12/2007	✓ Order, this 12th day of Oct., 2007, upon consideration of the Motion for Partial Summary Judgment, it is Ordered that a Rule is issued upon respondent. Respondent shall file an answer to the Motion within 30 days after service of the Motion for Partial Summary Judgment. The Motion shall be decided under Pa.R.C.P. 206.7. Argument shall be held on the 16th day of Nov., 2007 at 1:30 p.m. in Courtroom 2. Notice of the entry of this Order shall be provided to all parties by the moving party. By The Court, /s/ Paul E. Cherry, Judge. 3CC to Atty	Paul E. Cherry
10/17/2007	✓ Certificate of Service, on the 15th day of Oct., 2007, Motion for Partial Summary Judgment served upon R. Denning Gearhart, Esquire, by First Class Mail. Filed by s/ Christopher E. Mohney, Esquire. No CC	Paul E. Cherry
11/13/2007	✓ Answer to Motion for Partial Summary Judgment, filed by s/ R. Denning Gearhart Esq. 3CC Atty Gearhart.	Paul E. Cherry
11/16/2007	✓ Certificate of Readiness for Jury Trial, filed by s/ Christopher E. Mohney, Esquire. No CC	Paul E. Cherry

## Custody

Date	Judge	
✓ 05/23/2003	✓ ORDER, NOW, this 19th day of May, 2003, re: Mediation Fee be paid in full within no more than 30 days from this date. Any failure to make required payment shall result in automatic issuance of Bench Warrant w/o further notice being provided thereof. In the event of issuance of Bench Warrant, additional money amounts will be assessed. by the Court, s/FJA,J. 2 cc Atty Foor, 1 cc Def.	Fredric Joseph Ammerman
✓ 06/02/2003	✓ ORDER, NOW, this 2nd day of June, 2003, re: Custody Mediation Conference scheduled for June 20, 2003, at 1:00 p.m. by the Court, s/FJA,J. 1 cc to Pltff, Atty Foor, Defendant, 1 copy to Judge Ammerman, Allen H. Ryen, Ph.D. and CA	Fredric Joseph Ammerman
✓ 06/20/2003	✓ ORDER, NOW, this 20th day of June, 2003, re: Mediation Conference be RESCHEDULED by separate Order of Court. by the Court, s/FJA,J. 2 cc to Atty Foor, 1 cc to Defendant, 1 copy to Judge Ammerman, Allen H. Ryen, Ph.D., and CA	Fredric Joseph Ammerman
✓	✓ ORDER, NOW, this 20th day of June, 2003, Custody Mediation Conference be held before Allen H. Ryen, Ph.D., on July 30, 2003, at 9:00 a.m. by the Court, s/FJA,J. 2 cc to Atty Foor, 1 cc to Defendant, 1 copy to Judge Ammerman, Allen H. Ryen, Ph.D. and CA	Fredric Joseph Ammerman
✓ 07/30/2003	✓ ORDER, NOW, this 30th day of July, 2003, re: Mediation and Agreement of the Parties. by the Court, s/JKR,JR.,P.J. 4 cc to Atty Foor for Service	Fredric Joseph Ammerman
✓ 05/09/2005	✓ Petition to Modify Custody, filed by s/ Robin Jean Foor, Esquire. 4CC to Atty	Fredric Joseph Ammerman
✓ 05/11/2005	✓ Order of Court, You, Amelia Whelpley, have been sued in court to modify custody, partial custody or visitation. You are ordered to appear in person the 14th day of June, 2005, at 9:00 a.m. for a Custody Hearing at Courtroom 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 4CC Atty Foor	Paul E. Cherry
✓ 05/27/2005	✓ Certificate of Service, Copy of Petition to Modify served upon Amelia Whelpley. Filed By Robin Jean Foor, Esq. 1CC.	Paul E. Cherry

Date: 2/15/2008

**Clearfield County Court of Common Pleas**

User: LMILLER

Time: 10:05 AM

**ROA Report**

Page 2 of 2

Case: 2007-00107-CD

Current Judge: Paul E. Cherry

David W. Barr, Rita M. Barr vs. LaRue A. Krach, Marilyn J. Krach

**Civil Other**

Date	Judge
11/20/2007	✓ Order, this 16th day of Nov., 2007, following argument on Motion for Partial Summary Judgment, it is Ordered that both parties shall submit letter brief to the Court, if they so desire, within no more than 30 days from today's date. By the Court, /s/ Paul E. Cherry, Judge. 2Cc Attys: Mohney, Gearhart
	✓ Order, this 19th day of Nov., 2007, it is Ordered that a Pre-Trial Conference shall be held on the 18th day of Dec., 2007, in Chambers at 3:00 p.m. Jury selection will be held on Jan 3, 2008. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Mohney, Gearhart
12/11/2007	✓ Certificate of Service, filed. Served a true and correct copy of Defendant's Pretrial Statement filed in the above matter on the Plaintiffs through Plaintiffs' attorney, Christopher E. Mohney Esq., by first class mail filed by s/ R. Denning Gearhart Esq. NO CC.
12/19/2007	✓ Order, Jury Selection is scheduled for Jan. 3, 2008, at 9:00 a.m. in Courtroom 2. Trial is scheduled for Feb. 14, 2008 at 9:00 a.m. in Courtroom 2. (see original). By The Court, /s/ Paul E Cherry, Judge. 2CC Attys: Mohney, Gearhart
1/3/2008	✓ Order, this 2nd day of Jan., 2008, Summary Judgment is entered in favor of Paul E. Cherry Plaintiffs and against the Defendants and this matter shall be tried on the sole issue of damages before a jury. by The Court, /s/ Paul E. Cherry, Judge. 2CC Attys: Mohney, Gearhart
1/7/2008	✓ Motion In Limine, filed by s/ Christopher E. Mohney, Esquire. 2CC Atty. Mohney
1/8/2008	✓ Order, this 7th day of Jan., 2008, upon consideration of Motion in Limine of Paul E. Cherry Plaintiffs, it is Ordered that a hearing is scheduled for the 24th day of Jan., 2008 at 1:30 p.m. in courtroom 2. by the Court, /s/ Paul E. Cherry, Judge. 2 CC Atty. Mohney
1/28/2008	✓ Order, this 24th day of Jan., 2008, Motion in Limine is Granted. By The Court, /s/ Paul E. Cherry, Judge. 2CC Attys: Mohney, Gearhart
2/11/2008	✓ Notice of Deposition, filed by s/ Christopher E. Mohney, Esquire. No CC
2/15/2008	✓ Verdict Slip, filed.

Date: 02/06/2006

Clearfield County Court of Common Pleas

User: LBENDER

Time: 08:50 AM

ROA Report

Page 1 of 1

Case: 2001-01864-CD

Current Judge: Paul E. Cherry

Peter A. Sickerivs.Amelia Whelpley

Custody

Date	Selected Items	Judge
10/12/2005	✓ Order, NOW, this 11th day of October, 2005, Defendant is in contempt for failing to comply with the Court's Order of July 30, 2003. However, imposition of any sanctions at this time is not appropriate. Futher ordered that the Court's Order of July 30, 2003, shall be amended as follows: (see original for custody details). By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Foor, 1CC Def.	Paul E. Cherry
12/20/2005	✓ Contempt Petition, filed by s/ Robin Jean Foor, Esquire. 3CC to Atty	Paul E. Cherry
12/23/2005	✓ Order of Court, dated December 21, 2005. You, Amelia Whelpley, respondent, have been sued and you are ordered to appear in person the 10th day of February, 2006 at 9:00 a.m. for a Custody Hearing. BY THE COURT: /s/ Paul E. Cherry, Judge. 3CC Atty Foor.	Paul E. Cherry
12/28/2005	✓ Certificate of Service, filed. That on the 27th day of December, 2005, I served a copy of the Contempt Petition filed in that above captioned matter to Amelia Whelpley, filed by s/ Robin Jean Foor Esq. 1CC Atty Foor	Paul E. Cherry

2-10-06 ✓ Bench Warrant Order  
6-5-06 ✓ Contempt Petition  
6-7-06 ✓ Notice & Order  
6-12-06 ✓ Cert of Service

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M. BARR : CIVIL DIVISION  
| PLAINTIFFS, : NO. 07 - 107 - C.D.  
| VS. : TYPE OF CASE: CIVIL  
| LaRUE A. KRACH and MARILYN J. KRACH : TYPE OF PLEADING: COMPLAINT  
| DEFENDANTS. : FILED ON BEHALF OF: PLAINTIFFS  
| : COUNSEL OF RECORD:  
| : CHRISTOPHER E. MOHNEY, ESQUIRE  
| : SUPREME COURT NO.: 63494  
| : CHRISTOPHER E. MOHNEY, ESQUIRE  
| : 25 EAST PARK AVENUE, SUITE 6  
| : DUBOIS, PA 15801  
| : (814) 375-1044

**JURY TRIAL DEMANDED**

FILED 13cc Atty  
010:13 cm 2cc shf  
JAN 23 2007  
(S)

William A. Shaw  
Prothonotary/Clerk of Courts

1-23-08 @ 2:50

Denning does not oppose  
for hearing ē chris  
mohny TOMORROW  
so, he will not be  
there. (he will be in  
ERIE)

If any questions,  
his # 0765-1581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 - - C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :  
:

**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 CLAIM SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Daniel J. Nelson  
Court Administrator  
Clearfield Count Courthouse  
230 East Market Street  
Clearfield, Pennsylvania, 16830  
(814) 765 - 2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 - - C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :

**COMPLAINT**

AND NOW, comes your Plaintiffs, DAVID W. BARR and RITA M. BARR, by their attorney, CHRISTOPHER E. MOHNEY, ESQUIRE, who avers the following causes of action, of which the following is a statement:

1. Plaintiffs DAVID W. BARR and RITA M. BARR are adult individuals, husband and wife, with an address at 1317 Tower Lane, DuBois, Clearfield County, Pennsylvania 15801.
2. Plaintiff DAVID W. BARR is a bicycling enthusiast.
3. Defendants LaRUE A. KRACH and MARILYN J. KRACH are adult individuals, husband and wife, with an address at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848 (hereinafter sometimes referred to as the "land").
4. On August 24, 2006, Defendants were the owner of certain real estate commonly known as 15 Shuckers Orchard Road, Luthersburg, Clearfield County,

Pennsylvania 15848, by virtue of a deed recorded in Clearfield County Recorder of Deed Book 853, Page 151.

5. On August 24, 2006, Defendants were, at the real estate referenced in Paragraph 3 of this Complaint, in sole and exclusive possession and control of a dog owned by their son, Matthew R. Krach, the dog's name being "Bo".

6. On August 24, 2006, Bo's owner, Matthew R. Krach, was not present on Defendants' property at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848.

**COUNT I**  
**DAVID W. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH**

7. Paragraphs 1 through 6 are incorporated herein by reference and as if set forth at length.

8. On or about August 24, 2006, at or near the noon hour, Plaintiff DAVID W. BARR was lawfully bicycling on the public roadway bordering Defendants' land.

9. On or about August 24, 2006, during the late afternoon/early evening hours, Bo, the dog for which Defendants were in sole and exclusive possession and control, without provocation ran onto the public roadway in front of Plaintiff, causing Plaintiff to wreck the bicycle he was lawfully riding.

10. The accident was caused by Defendants' negligence, carelessness, and recklessness in that:

(a) Defendants failed to confine the dog within their premises, in violation of 3 P.S. § 459-305;

(b) Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. § 459-305;

(c) Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;

(d) Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and

(e) Defendants failed to keep adequate and proper control over the dog.

11. Resultant of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of T10, T11, T12, L1, L2, and L3; and cuts, bruises and abrasions, all of which injuries caused Plaintiff DAVID W. BARR great pain and suffering.

12. As a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. FARR has been obliged to expend money for medicine and medical care in order to treat and help cure his injuries.

13. Solely as a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR was, for a period, unable to attend to his usual and daily duties, and his enjoyment of life has been compromised.

14. Solely as a result of Defendants' negligence, Plaintiff DAVID W. BARR's bicycle sustained damages that cost \$700.61 to repair.

WHEREFORE, Plaintiff DAVID W. BARR claims damages of the Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand (\$20,000.00) Dollars, together with costs.

**COUNT II**

**RITA M. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH**

15. Paragraphs 1 through 14 are incorporated herein by reference and as if set forth at length.
16. As a result of Defendants' negligence, Plaintiff RITA M. BARR has been deprived of the society, companionship, contributions, and consortium of her husband, Plaintiff DAVID W. BARR, to her great detriment and loss.
17. As a result of Defendants' negligence, Plaintiff RITA M. BARR has suffered a disruption in her daily habits and pursuits and a loss of enjoyment of life.

WHEREFORE, Plaintiff RITA M. BARR demands judgment against Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand Dollars (\$20,000.00) Dollars, exclusive of interests and costs.

Respectfully submitted,

BY:

Christopher E. Mohney, Esquire  
Attorney for the Plaintiffs  
25 East Park Avenue, Suite 6  
DuBois, PA 15801  
(814) 375-1044

**VERIFICATION**

We, DAVID W. BARR and RITA M. BARR, have read the foregoing Complaint.

The statements therein are correct to the best of our personal knowledge or information and belief.

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

Date: 1/22/07

David W. Barr  
DAVID W. BARR

Date: 1/22/07

Rita M. Barr  
RITA M. BARR

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

DAVID W. BARR and RITA M.  
BARR,

Plaintiffs,

vs.

NO. 07-107-C.D.

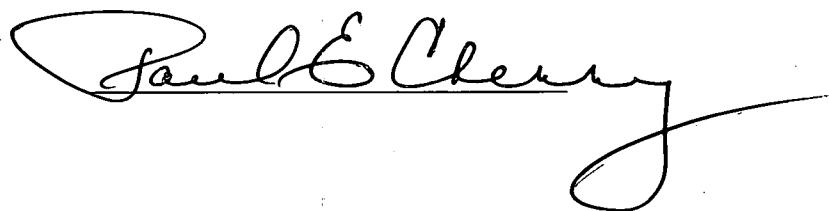
LaRUE A. KRACH and  
MARILYN J. KRACH,

Defendants.

**CONSENT ORDER**

AND NOW, this 26<sup>th</sup> day of February, 2007, upon consideration of the foregoing  
Consent to Amend Complaint, it is hereby ORDERED and DECREED that Plaintiffs, DAVID  
W. BARR AND RITA M. BARR shall have twenty (20) days from notice of entry of this Order  
within which to file the Amended Complaint attached to the Consent to Amend Complaint.

BY THE COURT:



FILED  
01/17/07  
FEB 27 2007  
Atty Mohney  
(6P)

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 2/27/07

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:

**FILED**

**FEB 27 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M. BARR : NO. 07-107 - C.D.  
PLAINTIFFS : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING: CONSENT TO AMEND COMPLAINT  
LaRUE A. KRACH and MARILYN J. KRACH : FILED ON BEHALF OF: PLAINTIFFS  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
DEFENDANTS : 25 EAST PART AVENUE, SUITE 6  
: DUBOIS, PA 15801  
: 814-375-1044

FILED

FEB 26 2007  
1/5/07 1/2  
William A. Shaw  
Prothonotary/Clerk of Courts  
100 C/C (6K)

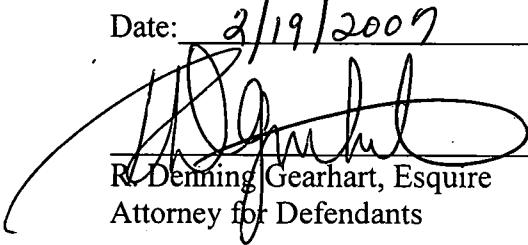
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M. BARR	NO. 07 - 107 - C.D.
PLAINTIFFS	TYPE OF CASE: CIVIL
VS.	
LaRUE A. KRACH and MARILYN J. KRACH	
DEFENDANTS	

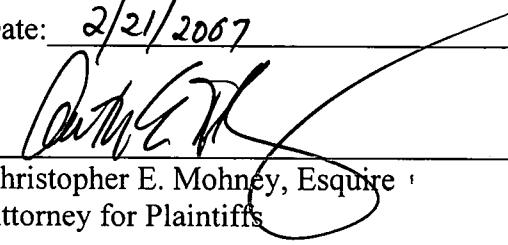
**CONSENT TO AMEND COMPLAINT**

Pursuant to Pa.R.C.P. 1033, the parties herein, through their undersigned counsel, consent to Plaintiffs being allowed to file within twenty (20) days hereof an Amended Complaint as set forth in the attached Exhibit A.

Date: 2/19/2007

  
R. Denning Gearhart, Esquire  
Attorney for Defendants

Date: 2/21/2007

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M.  
BARR : CIVIL DIVISION

PLAINTIFFS, : NO. 07 - - C.D.

VS. : TYPE OF CASE: CIVIL

LaRUE A. KRACH and  
MARILYN J. KRACH : TYPE OF PLEADING: AMENDED  
COMPLAINT

DEFENDANTS. : FILED ON BEHALF OF: PLAINTIFFS

: COUNSEL OF RECORD:  
CHRISTOPHER E. MOHNEY, ESQUIRE

: SUPREME COURT NO.: 63494

: CHRISTOPHER E. MOHNEY, ESQUIRE  
25 EAST PARK AVENUE, SUITE 6  
DUBOIS, PA 15801  
(814) 375-1044

**JURY TRIAL DEMANDED**

*Exhibit A.*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 -107 - C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :

**NOTICE**

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Daniel J. Nelson  
Court Administrator  
Clearfield Count Courthouse  
230 East Market Street  
Clearfield, Pennsylvania, 16830  
(814) 765 - 2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA	:	
M. BARR	:	CIVIL DIVISION
PLAINTIFFS,	:	NO. 07 - 107 - C.D.
VS.	:	
LaRUE A. KRACH and	:	
MARILYN J. KRACH	:	
DEFENDANTS.	:	

**AMENDED COMPLAINT**

AND NOW, comes your Plaintiffs, DAVID W. BARR and RITA M. BARR, by their attorney, CHRISTOPHER E. MOHNEY, ESQUIRE, who avers the following causes of action, of which the following is a statement:

1. Plaintiffs DAVID W. BARR and RITA M. BARR are adult individuals, husband and wife, with an address at 1317 Tower Lane, DuBois, Clearfield County, Pennsylvania 15801.
2. Plaintiff DAVID W. BARR is a bicycling enthusiast.
3. Defendants LaRUE A. KRACH and MARILYN J. KRACH are adult individuals, husband and wife, with an address at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848 (hereinafter sometimes referred to as the "land").
4. On August 24, 2006, Defendants were the owner of certain real estate commonly known as 15 Shuckers Orchard Road, Luthersburg, Clearfield County,

Pennsylvania 15848, by virtue of a deed recorded in Clearfield County Recorder of Deed Book 853, Page 151.

5. On August 24, 2006, Defendants were, at the real estate referenced in Paragraph 3 of this Complaint, in sole and exclusive possession and control of a dog owned by their son, Matthew R. Krach, the dog's name being "Bo".

6. On August 24, 2006, Bo's owner, Matthew R. Krach, was not present on Defendants' property at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848.

#### **COUNT I - NEGLIGENCE**

##### **DAVID W. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH**

7. Paragraphs 1 through 6 are incorporated herein by reference and as if set forth at length.

8. On or about August 24, 2006, at or near the noon hour, Plaintiff DAVID W. BARR was lawfully bicycling on the public roadway bordering Defendants' land.

9. On or about August 24, 2006, during the late afternoon/early evening hours, Bo, the dog for which Defendants were in sole and exclusive possession and control, without provocation ran onto the public roadway in front of Plaintiff, causing Plaintiff to wreck the bicycle he was lawfully riding (hereinafter referred to as the "accident").

10. The accident was caused by Defendants' negligence, carelessness, and recklessness in that:

(a) Defendants failed to confine the dog within their premises, in violation of 3 P.S. § 459-305;

(b) Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. § 459-305;

(c) Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;

(d) Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and

(e) Defendants failed to keep adequate and proper control over the dog.

11. Resultant of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of T10, T11, T12, L1, L2, and L3; and cuts, bruises and abrasions, all of which injuries caused Plaintiff DAVID W. BARR great pain and suffering.

12. As a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. FARR has been obliged to expend money for medicine and medical care in order to treat and help cure his injuries.

13. Solely as a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR was, for a period, unable to attend to his usual and daily duties, and his enjoyment of life has been compromised.

14. Solely as a result of Defendants' negligence, Plaintiff DAVID W. BARR's bicycle sustained damages that cost \$700.61 to repair.

WHEREFORE, Plaintiff DAVID W. BARR claims damages of the Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand (\$20,000.00) Dollars, together with costs.

**COUNT II – NEGLIGENCE *PER SE***

**DAVID W. BARR v. LaRUE A. KRACH and MARILYN J. KRACH**

15. Paragraphs 1 through 9 are incorporated herein by reference and as if set forth at length.
16. The accident was caused by Defendants' negligence *per se* in that:
  - a. Defendants failed to confine the dog within their premises, in violation of 3 P.S. §459-305;
  - b. Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. §459-305;
  - c. Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;
  - d. Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and
  - e. Defendants failed to keep adequate and proper control over the dog.
17. Resultant of Defendants' negligence *per se*, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of

T10, T11, T12, L1, L2, and L3; and cuts, bruises and abrasions, all of which injuries caused Plaintiff DAVID W. BARR great pain and suffering.

18. As a result of Defendants' negligence *per se*, Plaintiff DAVID W. BARR has been obliged to expend money for medicine and medical care in order to treat and help cure his injuries.
19. Solely as a result of Defendants' negligence *per se*, Plaintiff DAVID W. BARR was, for a period, unable to attend to his usual and daily duties, and his enjoyment of life has been compromised.
20. Solely as a result of Defendants' negligence *per se*, Plaintiff DAVID W. BARR'S bicycle sustained damages that cost \$700.61 to repair

WHEREFORE, Plaintiff DAVID W. BARR claims damages of the Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty thousand (\$20,000.00) Dollars, together with costs.

### **COUNT III – LOSS OF CONSORTIUM**

#### **RITA M. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH**

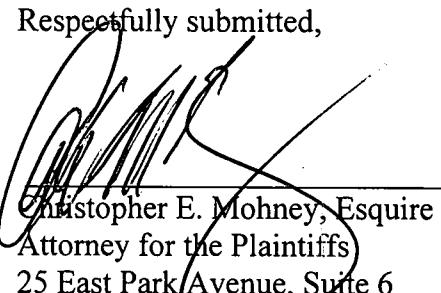
21. Paragraphs 1 through 20 are incorporated herein by reference and as if set forth at length.
22. As a result of Defendants' negligence and/or negligence *per se*, Plaintiff RITA M. BARR has been deprived of the society, companionship, contributions, and consortium of her husband, Plaintiff DAVID W. BARR, to her great detriment and loss.

23. As a result of Defendants' negligence and/or negligence *per se*, Plaintiff RITA M. BARR has suffered a disruption in her daily habits and pursuits and a loss of enjoyment of life.

WHEREFORE, Plaintiff RITA M. BARR demands judgment against Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand Dollars (\$20,000.00) Dollars, exclusive of interests and costs.

Respectfully submitted,

BY:

  
Christopher E. Mohney, Esquire  
Attorney for the Plaintiffs  
25 East Park Avenue, Suite 6  
DuBois, PA 15801  
(814) 375-1044

**VERIFICATION**

We, DAVID W. BARR and RITA M. BARR, have read the foregoing Complaint.

The statements therein are correct to the best of our personal knowledge or information and belief.

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

Date: \_\_\_\_\_

DAVID W. BARR

Date: \_\_\_\_\_

RITA M. BARR

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

DAVID W. BARR and RITA M. :  
BARR, :  
: Plaintiffs, :  
: vs. : NO. 07 - 107 - C.D.  
: :  
LaRUE A. KRACH and :  
MARILYN J. KRACH, :  
: Defendants. :  
:

**CONSENT ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of the foregoing  
Consent to Amend Complaint, it is hereby ORDERED and DECREED that Plaintiffs, DAVID  
W. BARR AND RITA M. BARR shall have twenty (20) days from notice of entry of this Order  
within which to file the Amended Complaint attached to the Consent to Amend Complaint.

BY THE COURT:

---

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M.  
BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 - <sup>107</sup> ~~204~~ - C.D.  
VS. : TYPE OF CASE: CIVIL  
LaRUE A. KRACH and  
MARILYN J. KRACH : TYPE OF PLEADING: AMENDED  
DEFENDANTS. : COMPLAINT  
FILED ON BEHALF OF: PLAINTIFFS  
COUNSEL OF RECORD:  
CHRISTOPHER E. MOHNEY, ESQUIRE  
SUPREME COURT NO.: 63494  
CHRISTOPHER E. MOHNEY, ESQUIRE  
25 EAST PARK AVENUE, SUITE 6  
DUBOIS, PA 15801  
(814) 375-1044

JURY TRIAL DEMANDED

*File*  
**FILED**  
MAR 05 2007  
m/s-30/cw  
William A. Shaw  
Prothonotary/Clerk of Courts  
1 CERT TO ATTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
: :  
PLAINTIFFS, : NO. 07 -107 -C.D.  
: :  
VS. : :  
: :  
LaRUE A. KRACH and :  
MARILYN J. KRACH :  
: :  
DEFENDANTS. : :

**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 CLAIM SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Daniel J. Nelson  
Court Administrator  
Clearfield Count Courthouse  
230 East Market Street  
Clearfield, Pennsylvania, 16830  
(814) 765 - 2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA	:	
M. BARR	:	CIVIL DIVISION
	:	
PLAINTIFFS,	:	NO. 07 - 107 - C.D.
	:	
VS.	:	
	:	
LaRUE A. KRACH and	:	
MARILYN J. KRACH	:	
	:	
DEFENDANTS.	:	

**AMENDED COMPLAINT**

AND NOW, comes your Plaintiffs, DAVID W. BARR and RITA M. BARR, by their attorney, CHRISTOPHER E. MOHNEY, ESQUIRE, who avers the following causes of action, of which the following is a statement:

1. Plaintiffs DAVID W. BARR and RITA M. BARR are adult individuals, husband and wife, with an address at 1317 Tower Lane, DuBois, Clearfield County, Pennsylvania 15801.
2. Plaintiff DAVID W. BARR is a bicycling enthusiast.
3. Defendants LaRUE A. KRACH and MARILYN J. KRACH are adult individuals, husband and wife, with an address at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848 (hereinafter sometimes referred to as the "land").
4. On August 24, 2006, Defendants were the owner of certain real estate commonly known as 15 Shuckers Orchard Road, Luthersburg, Clearfield County,

Pennsylvania 15848, by virtue of a deed recorded in Clearfield County Recorder of Deed Book 853, Page 151.

5. On August 24, 2006, Defendants were, at the real estate referenced in Paragraph 3 of this Complaint, in sole and exclusive possession and control of a dog owned by their son, Matthew R. Krach, the dog's name being "Bo".

6. On August 24, 2006, Bo's owner, Matthew R. Krach, was not present on Defendants' property at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848.

#### **COUNT I - NEGLIGENCE**

##### **DAVID W. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH**

7. Paragraphs 1 through 6 are incorporated herein by reference and as if set forth at length.

8. On or about August 24, 2006, at or near the noon hour, Plaintiff DAVID W. BARR was lawfully bicycling on the public roadway bordering Defendants' land.

9. On or about August 24, 2006, during the late afternoon/early evening hours, Bo, the dog for which Defendants were in sole and exclusive possession and control, without provocation ran onto the public roadway in front of Plaintiff, causing Plaintiff to wreck the bicycle he was lawfully riding (hereinafter referred to as the "accident").

10. The accident was caused by Defendants' negligence, carelessness, and recklessness in that:

(a) Defendants failed to confine the dog within their premises, in violation of 3 P.S. § 459-305;

(b) Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. § 459-305;

(c) Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;

(d) Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and

(e) Defendants failed to keep adequate and proper control over the dog.

11. Resultant of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of T10, T11, T12, L1, L2, and L3; and cuts, bruises and abrasions, all of which injuries caused Plaintiff DAVID W. BARR great pain and suffering.

12. As a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. FARR has been obliged to expend money for medicine and medical care in order to treat and help cure his injuries.

13. Solely as a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR was, for a period, unable to attend to his usual and daily duties, and his enjoyment of life has been compromised.

14. Solely as a result of Defendants' negligence, Plaintiff DAVID W. BARR's bicycle sustained damages that cost \$700.61 to repair.

WHEREFORE, Plaintiff DAVID W. BARR claims damages of the Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand (\$20,000.00) Dollars, together with costs.

**COUNT II – NEGLIGENCE *PER SE***

**DAVID W. BARR v. LaRUE A. KRACH and MARILYN J. KRACH**

15. Paragraphs 1 through 9 are incorporated herein by reference and as if set forth at length.
16. The accident was caused by Defendants' negligence *per se* in that:
  - a. Defendants failed to confine the dog within their premises, in violation of 3 P.S. §459-305;
  - b. Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. §459-305;
  - c. Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;
  - d. Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and
  - e. Defendants failed to keep adequate and proper control over the dog.
17. Resultant of Defendants' negligence *per se*, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of

T10, T11, T12, L1, L2, and L3; and cuts, bruises and abrasions, all of which injuries caused Plaintiff DAVID W. BARR great pain and suffering.

18. As a result of Defendants' negligence *per se*, Plaintiff DAVID W. BARR has been obliged to expend money for medicine and medical care in order to treat and help cure his injuries.
19. Solely as a result of Defendants' negligence *per se*, Plaintiff DAVID W. BARR was, for a period, unable to attend to his usual and daily duties, and his enjoyment of life has been compromised.
20. Solely as a result of Defendants' negligence *per se*, Plaintiff DAVID W. BARR'S bicycle sustained damages that cost \$700.61 to repair

WHEREFORE, Plaintiff DAVID W. BARR claims damages of the Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty thousand (\$20,000.00) Dollars, together with costs.

**COUNT III – LOSS OF CONSORTIUM**

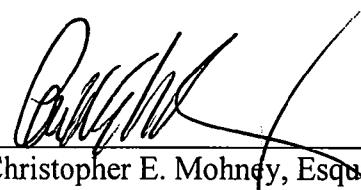
**RITA M. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH**

21. Paragraphs 1 through 20 are incorporated herein by reference and as if set forth at length.
22. As a result of Defendants' negligence and/or negligence *per se*, Plaintiff RITA M. BARR has been deprived of the society, companionship, contributions, and consortium of her husband, Plaintiff DAVID W. BARR, to her great detriment and loss.

23. As a result of Defendants' negligence and/or negligence *per se*, Plaintiff RITA M. BARR has suffered a disruption in her daily habits and pursuits and a loss of enjoyment of life.

WHEREFORE, Plaintiff RITA M. BARR demands judgment against Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand Dollars (\$20,000.00) Dollars, exclusive of interests and costs.

Respectfully submitted,

BY: 

Christopher E. Mohney, Esquire  
Attorney for the Plaintiffs  
25 East Park Avenue, Suite 6  
DuBois, PA 15801  
(814) 375-1044

**VERIFICATION**

We, DAVID W. BARR and RITA M. BARR, have read the foregoing Complaint. The statements therein are correct to the best of our personal knowledge or information and belief.

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

Date: 2/27/07

David W. Barr  
DAVID W. BARR

Date: 2/27/07

Rita M Barr  
RITA M. BARR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

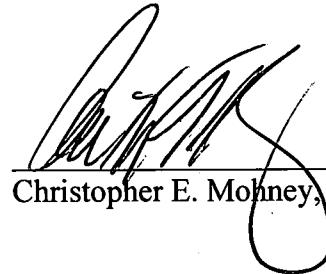
DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 -107 - C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :

**CERTIFICATE OF SERVICE**

I, Christopher E. Mohney, Esquire, do hereby certify that on this 2nd day of March, 2007, I caused to be served by First Class United States Mail, postage prepaid, true and correct copy of Amended Complaint on the following:

R. Denning Gearhart, Esquire  
207 East Market Street  
Clearfield, PA 16830

By:

  
Christopher E. Mohney, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102367  
NO. 07-107-CD  
SERVICE # 1 OF 2  
COMPLAINT

PLAINTIFF: DAVID W. BARR and RITA M. BARR

vs.

DEFENDANT: LaRUE A. KRACH and MARILYN J. KRACH

**SHERIFF RETURN**

---

NOW, January 31, 2007 AT 11:50 AM SERVED THE WITHIN COMPLAINT ON LaRUE A. KRACH DEFENDANT AT 15 SHUCKERS ORCHARD ROAD, LUTHERSBURG, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO LARUE KRACH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED  
01/09/00 cm  
APR 25 2007  


William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102367  
NO: 07-107-CD  
SERVICE # 2 OF 2  
COMPLAINT

PLAINTIFF: DAVID W. BARR and RITA M. BARR

vs.

DEFENDANT: LaRUE A. KRACH and MARILYN J. KRACH

**SHERIFF RETURN**

---

NOW, January 31, 2007 AT 11:50 AM SERVED THE WITHIN COMPLAINT ON MARILYN J. KRACH DEFENDANT AT 15 SHUCKERS ORCHARD ROAD, LUTHERSBURG, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO LARUE KRACH, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102367  
NO: 07-107-CD  
SERVICES 2  
COMPLAINT

PLAINTIFF: DAVID W. BARR and RITA M. BARR  
vs.  
DEFENDANT: LaRUE A. KRACH and MARILYN J. KRACH

**SHERIFF RETURN**

**RETURN COSTS**

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	BARR	2607	20.00
SHERIFF HAWKINS	BARR	2607	40.88

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2007

  
Chester A. Hawkins  
Sheriff

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

DAVID W. BARR and RITA  
M. BARR, :  
Plaintiffs :  
vs. : No. 07-107-CD  
LaRUE A. KRACH and :  
MARILYN J. KRACH, :  
Defendants :  
:

CASE NUMBER: No. 07-107-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: ANSWER TO AMENDED COMPLAINT AND  
NEW MATTER

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

FILED  
01/04/2007 300  
MAY 03 2007 Atty  
Gearhart  
William A. Shaw  
Prothonotary/Clerk of Courts  
(6K)

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

DAVID W. BARR and RITA  
M. BARR, :  
Plaintiffs :  
vs. : No. 07-107-CD  
LaRUE A. KRACH and :  
MARILYN J. KRACH, :  
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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641

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

DAVID W. BARR and RITA :  
M. BARR, :  
Plaintiffs :  
vs. : No. 07-107-CD  
LaRUE A. KRACH and :  
MARILYN J. KRACH, :  
Defendants :  
:

**ANSWER TO AMENDED COMPLAINT AND NEW MATTER**

AND NOW, comes LaRue A. Krach and Marilyn J. Krach, Defendants, by  
and through their attorney, R. Denning Gearhart, Esq. who aver as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. No answer required.
8. Admitted.
9. Denied. The accident happened at or near the noon hour. Further denied  
that the dog ran on to a public roadway, and, therefore, it is denied that the dog caused the  
accident.

10. (a) Denied. Calls for a conclusion of law. To the extent that it does raise a factual issue, it is denied that the Defendants failed to confine the dog. The dog's response to the Defendants, and its past habits, indicate that it stayed on the Defendants' property and did not stray.

(b) Denied. Calls for a conclusion of law. To the extent that it does raise a factual issue, the dog did have a harness although the harness was not attached to any stationary item.

(c) Denied. The Defendants reasonably relied upon their past training and voice commands to keep the dog with them on their property.

(d) Admitted.

(e) Denied. Past training and voice commands were sufficient to keep the dog from going on to the public roadway.

11. Denied as to the Defendants' negligence, carelessness and recklessness. Further denied that this was the cause of the accident. As to the Plaintiffs' injuries, Defendants are not aware of the exact nature of the Plaintiffs' alleged injuries and, therefore, strict proof is required at time of trial.

12. Denied that the Defendants were negligent, careless or reckless. With regard to the monies spent by the Plaintiffs, Defendants are not aware of the information contained in the averment, and, therefore, strict proof is required at trial.

13. Denied that the Defendants were negligent, careless or reckless. Further, the Defendants are not aware of the exact nature of the Plaintiffs' injuries and the alleged consequences thereof, and, therefore, strict proof is required at trial.

14. Denied that the Defendants' were negligent. Further, if there was negligence, it is denied that the negligence resulted – solely or otherwise – in the accident. As to the damages of the bicycle, Defendants are not aware of the cost of the repairs and, therefore, strict proof is required at trial.

WHEREFORE, Defendants pray your Honorable Court to enter Judgment for them and against the Plaintiffs.

15. No Answer required.

16. (a) Denied. The dog was confined to the Defendants' premises based on past training and voice commands.

(b) Admitted that the Defendants failed to secure the dog by means of a collar, chain or other device, but inasmuch as the dog was confined by previous training and voice command, it is denied that they violated the Statute relied upon.

(c) Denied. Defendants reasonably relied upon the dog's training and voice commands.

(d) Admitted.

(e) Denied. Defendants' reasonably relied upon the dog's training and voice commands.

17. Denied as to the Defendants' negligence. As to the injuries, Defendants are not aware of the nature of the injuries and, therefore, strict proof is required at trial.

18. Denied as to the Defendants' negligence. As to the injuries, Defendants are not aware of the nature of the injuries and, therefore, strict proof is required at trial.

19. Denied as to the Defendants' negligence. As to the injuries, Defendants are not aware of the nature of the injuries and, therefore, strict proof is required at trial.

20. Denied as to the Defendants' negligence. As to the injuries, Defendants are not aware of the nature of the injuries and, therefore, strict proof is required at trial.

WHEREFORE, Defendants pray your Honorable Court to enter Judgment for them and against the Plaintiffs.

21. No answer required.

22. Denied as to the Defendants' negligence. As to the injuries, Defendants are not aware of the nature of the injuries and, therefore, strict proof is required at trial.

23. Denied as to the Defendants' negligence. As to the injuries, Defendants are not aware of the nature of the injuries and, therefore, strict proof is required at trial.

WHEREFORE, Defendants pray your Honorable Court to enter Judgment for them and against the Plaintiffs.

#### NEW MATTER

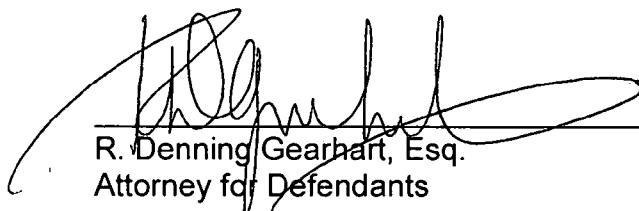
24. Paragraphs one (1) through twenty-three (23) of the Complaint, Amended Complaint and Answer to Amended Complaint are incorporated herein as though set forth in full.

25. That the accident which is alleged to have occurred, if it occurred at all, was the result of the Plaintiffs' negligence:

- (a) Failing to operate his bicycle in a safe manner;
- (b) Failing to operate a proper bicycle for the terrain upon which he was riding.

WHEREFORE, Defendants pray your Honorable Court to establish that the Plaintiffs' injuries were caused by himself, or, in the alternative, that his own negligence, carelessness, and recklessness contributed to the cause of the accident, and, therefore, to his injuries.

Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Defendants

COMMONWEALTH OF PENNSYLVANIA :

: SS.

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared LaRUE A. KRACH and MARILYN J. KRACH, who being duly sworn according to law depose and say that the facts set forth in the foregoing **Answer & New Matter** are true and correct to the best of their knowledge, information and belief.

LaRue A. Krach  
LaRue A. Krach

Marilyn J. Krach  
Marilyn J. Krach

Sworn to and subscribed  
before me, this 1  
day of May, 2007.

Kathleen A. Ricotta  
Notary Public

Commonwealth of Pennsylvania

NOTARIAL SEAL

KATHLEEN A. RICOTTA, Notary Public  
Clearfield Boro., County of Clearfield  
My Commission Expires June 15, 2009

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION No. 07-107-CD

DAVID W. BARR and RITA M.  
BARR,  
Plaintiffs

vs.

LARUE A. KRACH and  
MARILYN J. KRACH  
Defendants

ANSWER TO AMENDED COMPLAINT AND  
NEW MATTER

Prothonotary/Clerk of Courts  
William A. Straw

MAY 03 2007

FILED

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

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

DAVID W. BARR and RITA  
M. BARR,  
Plaintiffs

vs. : No. 07-107-CD

LaRUE A. KRACH and  
MARILYN J. KRACH,  
Defendants

CASE NUMBER: No. 07-107-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I. D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

FILED  
033904  
MAY 03 2007  
CLerk  
No cc

William A. Shaw  
Prothonotary/Clerk of Courts

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

DAVID W. BARR and RITA  
M. BARR,

Plaintiffs

vs.

: No. 07-107-CD

LaRUE A. KRACH and

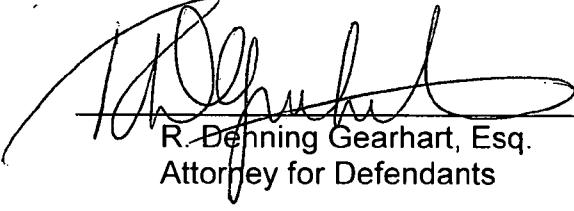
MARILYN J. KRACH,

Defendants

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Answer to Amended Complaint and New Matter filed in the above captioned matter on the Plaintiffs through Plaintiffs' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Christopher E. Mohney, Esq.  
25 East Park Avenue  
Suite 6  
DuBois, PA 15801

  
R. Dehning Gearhart, Esq.  
Attorney for Defendants

Dated: May 3, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M.  
BARR : CIVIL DIVISION

PLAINTIFFS, : NO. 07 - 107 - C.D.

VS. : TYPE OF CASE: CIVIL

LaRUE A. KRACH and  
MARILYN J. KRACH : TYPE OF PLEADING: REPLY TO  
NEW MATTER

DEFENDANTS. : FILED ON BEHALF OF: PLAINTIFFS

: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE

: SUPREME COURT NO.: 63494

: CHRISTOPHER E. MOHNEY, ESQUIRE  
: 25 EAST PARK AVENUE, SUITE 6  
: DUBOIS, PA 15801  
: (814) 375-1044

FILED

MAY 18 2007  
M/10:40/6  
William A. Shaw  
Prothonotary/Clerk of Courts

NO 4/C (6K)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M. BARR	:	CIVIL DIVISION
PLAINTIFFS,	:	NO. 07 -107 - C.D.
VS.	:	
LaRUE A. KRACH and MARILYN J. KRACH	:	
DEFENDANTS.	:	

**REPLY TO NEW MATTER**

AND NOW, comes Plaintiffs **DAVID W. BARR and RITA M. BARR**, by their counsel, **CHRISTOPHER E. MOHNEY, ESQUIRE**, and replies to New Matter of Defendants LaRue A. Krach and Marilyn J. Krach, averring as follows:

24. No reply required.

25. Denied. To the contrary, plaintiff David W. Barr's wreck of the bicycle he was riding at the time and place alleged in the Amended Complaint, which occurred as a result of the defendants' negligence and/or negligence per se, as more specifically averred in the Amended Complaint, the contents of which are incorporated herein by reference and as if set forth at length. By way of further response, plaintiff David W. Barr denies being negligent in causing his wreck, more specifically:

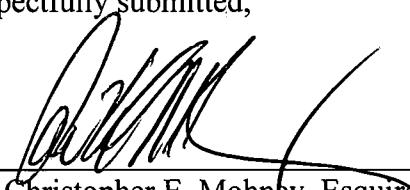
- a) Plaintiff David W. Barr denies that he failed to operate his bicycle in a safe manner. To the contrary, plaintiff David W. Barr was adhering to all rules of the road; and

b) Plaintiff David W. Barr denies that he failed to operate a proper bicycle for the terrain upon which he was riding. To the contrary, Mr. Barr, at the time defendants' negligence caused him to wreck his bicycle, was riding a Serotta Legend TI bicycle, custom fit for Mr. Barr and a high-performance bicycle specifically designed for riding on roads.

WHEREFORE, plaintiffs pray your Honorable Court to dismiss defendants' New Matter.

Respectfully submitted,

By:

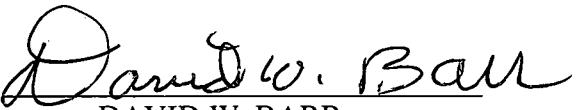
  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs David W. Barr  
And Rita M. Barr

**VERIFICATION**

We, DAVID W. BARR and RITA M. BARR, have read the foregoing Reply to New Matter. The statements therein are correct to the best of our personal knowledge or information and belief.

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

Date: 5-14-07

  
DAVID W. BARR

Date: 5-14-07

  
RITA M. BARR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

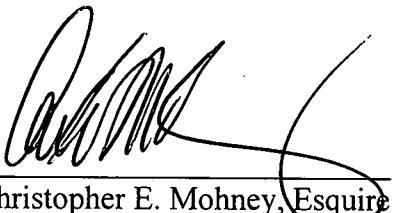
DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 -107 - C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :

**CERTIFICATE OF SERVICE**

I, Christopher E. Mohney, Esquire, do hereby certify that on this 16<sup>th</sup> day of May, 2007, I caused to be served by First Class United States Mail, postage prepaid, true and correct copy of Reply to New Matter on the following:

R. Denning Gearhart, Esquire  
207 East Market Street  
Clearfield, PA 16830

By:

  
Christopher E. Mohney, Esquire

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION  
NO. 07-107-C.D.

DAVID W. BARR and RITA M.  
BARR,

PLAINTIFFS

VS.

LARUE A. KRACH and  
MARILYN J. KRACH,

DEFENDANTS

REPLY TO NEW MATTER

William A. Shaw  
Prothonotary/Clerk of Courts

MAY 18 2007

FILED

LAW OFFICES  
CHRISTOPHER E. MOHNEY  
25 East Park Avenue  
DUBOIS, PA 15801  
(814) 375-1044

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

No. 07-107-CD

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

CASE NUMBER: 07-107-CD

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendants

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire  
Supreme Court ID#: 26540  
207 East Market Street  
Clearfield, PA 16830  
814-765-1581

FILED  
JUN 13 2007 10:25 AM 2007  
R. Denning Gearhart  
W.A. Shaw  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

No. 07-107-CD

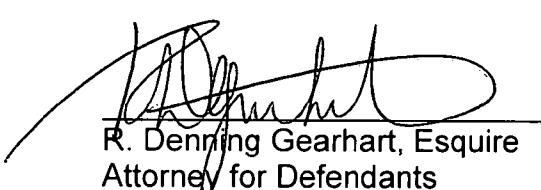
LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has on this date served a true and correct copy of the Defendants' Answers to Plaintiffs' First Set of Interrogatories and Request for Production of Documents filed in the above-captioned matter on the Plaintiffs, by and through their attorney, Christopher E. Mohney, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Christopher E. Mohney, Esquire  
25 East Park Avenue, Suite 6  
DuBois, PA 15801

Date: June 13, 2007

  
R. Denning Gearhart, Esquire  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 - 107 - C.D.  
VS. : TYPE OF CASE: CIVIL  
LaRUE A. KRACH and MARILYN J. KRACH : TYPE OF PLEADING: MOTION FOR PARTIAL SUMMARY JUDGMENT  
DEFENDANTS. : FILED ON BEHALF OF: PLAINTIFFS  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: 25 EAST PARK AVENUE, SUITE 6  
: DUBOIS, PA 15801  
: (814) 375-1044

FILED *m 19 13 2007* *3cc*  
*OCT 01 2007* *Atty Mohney*  
*(6B)*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07-107-C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :

**FILED**

OCT 12 2007  
o 11:05 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 CENTS TO COPY  
(6K)

**ORDER**

AND NOW, this 12<sup>th</sup> day of October, 2007, upon  
consideration of the foregoing Motion for Partial Summary Judgment, it is hereby

**ORDERED** that:

1. A Rule is issued upon the respondent to show cause why the moving party  
is not entitled to the relief requested;
2. The respondent shall file an answer to the Motion within thirty (30) days  
after service of the Motion for Partial Summary Judgment;
3. The Motion shall be decided under Pa. R.C.P. 206.7;
4. Argument shall be held on the 16<sup>th</sup> day of November,  
2007 at 1:30 'clock P.M. in Courtroom No. 2 of  
the Clearfield County Courthouse; and
5. Notice of the entry of this Order shall be provided to all parties by the  
moving party.

By the Court,

Paul E. Cleary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M. BARR	:	CIVIL DIVISION
PLAINTIFFS,	:	NO. 07 -107 - C.D.
VS.	:	
LaRUE A. KRACH and MARILYN J. KRACH	:	
DEFENDANTS.	:	

**MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs ***DAVID W. BARR and RITA M. BARR***, through their counsel, ***CHRISTOPHER E. MOHNEY, ESQUIRE***, requests that this Court enter partial summary judgment in their favor as to liability, and in support represent as follows:

1. Plaintiffs commenced this law suit against the defendants by the filing of a civil complaint on January 23, 2007.
2. Plaintiffs caused to be filed an Amended Complaint on March 5, 2007, and the gist of plaintiffs claims for relief are that defendants were negligent by failing to confine within their premises a dog<sup>1</sup> for which they were keepers, or by otherwise taking any action(s) or precaution(s) to prevent the dog from entering onto a public roadway where plaintiff David W. Barr was lawfully riding his bicycle; the dog ran onto the roadway in front of Mr. Barr's bicycle, causing Mr. Barr to wreck, resulting in broken ribs and fractures of left transverse processes, in addition to cuts, bruises and abrasions.

---

<sup>1</sup> The dog in question was owned by Matthew Krach, but entrusted to the care of his parents, the defendants, while his broken leg mended. The dog is a pit bull/boxer/lab mix.

3. Count I of plaintiff's Amended Complaint advances a theory of recovery based on negligence on the part of defendants Larue A. Krach and Marilyn J. Krach.

4. Count II of plaintiff's Amended Complaint advances a theory of recovery based on negligence *per se* on the part of Larue A. Krach and Marilyn J. Krach, grounded in allegations and admissions to violations of the Pennsylvania Dog Law, 3 P.S. § 459-305.

5. Count III of plaintiff's Complaint advances a theory of recovery of recovery based on loss of consortium claimed by plaintiff Marilyn J. Krach.

6. Defendants filed an Answer to Amended Complaint and New Matter on May 3, 2007, and while defendants attempt to deny responsibility, they do admit to being in violation of the applicable provisions of the Pennsylvania Dog Law. See Paragraphs 10 and 16 of the Amended Complaint and Answer, attached hereto and marked Exhibit "A".

7. Other than plaintiff David W. Barr, there was no other eyewitness to the actual accident. A true and correct copy of relevant portions of the deposition of Larue Albert Krach and Frank Albert Krach are attached hereto as Exhibit "B", verifying neither gentleman saw the accident occur.

8. Defendants have admitted that they failed to secure the dog in compliance with the mandates of the Pennsylvania Dog Law, 3 P.S. § 459-305. See Paragraphs 10 and 16 of the Amended Complaint and Answer to Amended Complaint attached hereto as Exhibit "A", and relevant portion of the deposition of Larue Albert Krach is attached as Exhibit "C".

9. Defendants maintain that they did not violate the Pennsylvania Dog Law because of the dog's "past habits" and "past training and voice commands" of being sufficient of keeping the dog from going onto the public roadway; however, even if accepted as true for purposes of determining this motion, neither complies with the Pennsylvania Dog Law. Moreover, since neither of the named defendants or the only other person present at or near the time of the accident, Frank Albert Krach, saw the accident occur, none of them would have had reason to issue a voice command to the dog to remain on the premises as Mr. Barr approached on his bicycle. A true and correct copy of the relevant portion of the deposition of Larue Albert Krach is attached hereto as Exhibit "D".

10. Defendants theorize that Mr. Barr wrecked his bicycle because he was startled by the dog's presence at the roadside, barking; that this caused Mr. Barr to spike his brakes and fly over the handle bars, all the while snapping the front fork of his bicycle. See relevant portion of deposition of Larue Albert Krach attached hereto as Exhibit "E". While interesting, defendants' theory, even if it were true, does not relieve the defendants of their duty to Mr. Barr, nor circumvent the clear mandates of the Pennsylvania Dog Law requiring dog owners to confine and/or secure pets within premises; it is submitted whether the dog actually ran onto the road in front of Mr. Barr or stood at the road's edge in causing Mr. Barr to wreck is bicycle is irrelevant, since under either scenario the defendants were at least negligent, not to mention negligent *per se*, in failing to properly confine and/or secure the dog they were keeping.

11. Defendants were cited for violating The Dog Law, and after a summary trial, were found guilty of violating 3 P.S. § 459-305; no appeal from the magistrate's finding of guilt was lodged.

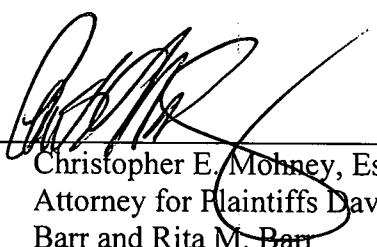
12. Pursuant to Miller v. Hurst, 448 A.2d 614 (Pa.Super. 1982), the requirement of the dog law with respect to keeping a dog either confined within the premises of the owner [keeper, in this case], firmly secured by means of a collar and chain or other device, or under the reasonable control of some person is the standard to be used for determining whether a person has complied with the common-law duty to exercise due care, and an unexcused violation of the dog law requiring the foregoing is negligence *per se*.

13. There exists no genuine issue of any material fact with regard to defendants' and plaintiffs are entitled as a matter of law to partial summary judgment as to liability, with damages to be assessed at trial.

WHEREFORE, plaintiffs DAVID W. BARR and RITA M. BARR request this Court to enter Partial Summary Judgment in their favor on the issue of liability.

Respectfully submitted,

By:

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs David W.  
Barr and Rita M. Barr

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA  
M. BARR : CIVIL DIVISION  
PLAINTIFFS, : NO. 07 -107 - C.D.  
VS. :  
LaRUE A. KRACH and  
MARILYN J. KRACH :  
DEFENDANTS. :

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, a Motion  
having been made by plaintiffs for summary judgment in their favor, and after a hearing,  
and in consideration of the pleadings, depositions and arguments of counsel, this Court  
finds that there is no genuine issue as to any material fact except the amount of plaintiffs'  
damages, and that plaintiffs are entitled to judgment for such amount as shall be found to  
be due to their respective damages. It is **ORDERED**:

1. That summary judgment is entered in favor of the plaintiffs and  
against the defendants; and
2. That this matter shall be placed on the Jury Trial List for the sole  
issue of damages.

By the Court,

---

Pennsylvania 15848, by virtue of a deed recorded in Clearfield County Recorder of Deed Book 853, Page 151.

5. On August 24, 2006, Defendants were, at the real estate referenced in Paragraph 3 of this Complaint, in sole and exclusive possession and control of a dog owned by their son, Matthew R. Krach, the dog's name being "Bo".

6. On August 24, 2006, Bo's owner, Matthew R. Krach, was not present on Defendants' property at 15 Shuckers Orchard Road, Luthersburg, Clearfield County, Pennsylvania 15848.

#### COUNT I - NEGLIGENCE

##### DAVID W. BARR vs. LaRUE A. KRACH and MARILYN J. KRACH

7. Paragraphs 1 through 6 are incorporated herein by reference and as if set forth at length.

8. On or about August 24, 2006, at or near the noon hour, Plaintiff DAVID W. BARR was lawfully bicycling on the public roadway bordering Defendants' land.

9. On or about August 24, 2006, during the late afternoon/early evening hours, Bo, the dog for which Defendants were in sole and exclusive possession and control, without provocation ran onto the public roadway in front of Plaintiff, causing Plaintiff to wreck the bicycle he was lawfully riding (hereinafter referred to as the "accident").

10. The accident was caused by Defendants' negligence, carelessness, and recklessness in that:

(a) Defendants failed to confine the dog within their premises, in violation of 3 P.S. § 459-305;

EXHIBIT "A"

(b) Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. § 459-305;

(c) Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;

(d) Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and

(e) Defendants failed to keep adequate and proper control over the dog.

11. Resultant of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of T10, T11, T12, L1, L2, and L3; and cuts, bruises and abrasions, all of which injuries caused Plaintiff DAVID W. BARR great pain and suffering.

12. As a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. FARR has been obliged to expend money for medicine and medical care in order to treat and help cure his injuries.

13. Solely as a result of Defendants' negligence, carelessness and recklessness, Plaintiff DAVID W. BARR was, for a period, unable to attend to his usual and daily duties, and his enjoyment of life has been compromised.

14. Solely as a result of Defendants' negligence, Plaintiff DAVID W. BARR's bicycle sustained damages that cost \$700.61 to repair.

WHEREFORE, Plaintiff DAVID W. BARR claims damages of the Defendants LaRUE A. KRACH and MARILYN J. KRACH in an amount in excess of Twenty Thousand (\$20,000.00) Dollars, together with costs.

**COUNT II - NEGLIGENCE *PER SE***

**DAVID W. BARR v. LaRUE A. KRACH and MARILYN J. KRACH**

15. Paragraphs 1 through 9 are incorporated herein by reference and as if set forth at length.

16. The accident was caused by Defendants' negligence *per se* in that:

- a. Defendants failed to confine the dog within their premises, in violation of 3 P.S. §459-305;
- b. Defendants failed to firmly secure the dog by means of a collar and chain or other device so that the dog could not stray beyond the premises on which it was secured, in violation of 3 P.S. §459-305;
- c. Defendants failed to take any action or precaution to prevent the dog from entering onto the public roadway where Plaintiff DAVID W. BARR was riding his bicycle;
- d. Defendants failed to take any safety precautions to protect or warn Plaintiff DAVID W. BARR; and
- e. Defendants failed to keep adequate and proper control over the dog.

17. Resultant of Defendants' negligence *per se*, Plaintiff DAVID W. BARR suffered three (3) fractured ribs; fractures of the left transverse processes of

## ANSWER

10. (a) Denied. Calls for a conclusion of law. To the extent that it does raise a factual issue, it is denied that the Defendants failed to confine the dog. The dog's response to the Defendants, and its past habits, indicate that it stayed on the Defendants' property and did not stray.

(b) Denied. Calls for a conclusion of law. To the extent that it does raise a factual issue, the dog did have a harness although the harness was not attached to any stationary item.

(c) Denied. The Defendants reasonably relied upon their past training and voice commands to keep the dog with them on their property.

(d) Admitted.

(e) Denied. Past training and voice commands were sufficient to keep the dog from going on to the public roadway.

11. Denied as to the Defendants' negligence, carelessness and recklessness. Further denied that this was the cause of the accident. As to the Plaintiffs' injuries, Defendants are not aware of the exact nature of the Plaintiffs' alleged injuries and, therefore, strict proof is required at time of trial.

12. Denied that the Defendants were negligent, careless or reckless. With regard to the monies spent by the Plaintiffs, Defendants are not aware of the information contained in the averment, and, therefore, strict proof is required at trial.

13. Denied that the Defendants were negligent, careless or reckless. Further, the Defendants are not aware of the exact nature of the Plaintiffs' injuries and the alleged consequences thereof, and, therefore, strict proof is required at trial.

14. Denied that the Defendants' were negligent. Further, if there was negligence, it is denied that the negligence resulted – solely or otherwise – in the accident. As to the damages of the bicycle, Defendants are not aware of the cost of the repairs and, therefore, strict proof is required at trial.

WHEREFORE, Defendants pray your Honorable Court to enter Judgment for them and against the Plaintiffs.

15. No Answer required.

16. (a) Denied. The dog was confined to the Defendants' premises based on past training and voice commands.

(b) Admitted that the Defendants failed to secure the dog by means of a collar, chain or other device, but inasmuch as the dog was confined by previous training and voice command, it is denied that they violated the Statute relied upon.

(c) Denied. Defendants reasonably relied upon the dog's training and voice commands.

(d) Admitted.

(e) Denied. Defendants' reasonably relied upon the dog's training and voice commands.

1 24th, 2006, you didn't see the accident happen?

2 A. Well, I was within 100 feet of it.

3 Q. Did you see the accident happen?

4 A. No, I was unloading siding in a dumpster,  
5 and I never looked up until I heard Mr. Barr hit  
6 the road.

7 Q. Right, okay.

8 The second part of paragraph 25B of this  
9 document that you filed, you also say that  
10 Mr. Barr was negligent for failing to operate a  
11 proper bicycle for the terrain upon which he was  
12 riding. Is that what that says, did I read that  
13 correct?

14 A. (No audible response.)

15 Q. You're nodding your head yes.

16 A. Yes.

17 Q. What did you mean by that?

18 A. I already explained it.

19 Q. I missed it then.

20 A. It was a carbon fiber bicycle.

21 Q. So?

22 A. So.

23 Q. How is that not proper for a cement road?

24 A. Well, probably other people would have  
25 picked a mountain bike that didn't have a carbon

1 Q. So you heard the accident?

2 A. And then I looked over right away, and I  
3 seen him -- the bicycle come to a stop, and he was  
4 out over top the bicycle.

5 Q. Okay.

6 A. So then that was it. Then we run -- I  
7 run over.

8 Q. To help him out?

9 A. Yeah.

10 Q. Did you see what happened to cause him  
11 fall, did you see that part of it?

12 A. No, I really didn't.

13 Q. You just heard something, looked up, and  
14 saw the bicycle sliding on the cement?

15 A. Right. He was laying on the -- out over  
16 the bicycle.

17 Q. Do you remember where the dog was when  
18 you first saw him laying on the road? If you  
19 remember. If you don't remember, that's fine.

20 A. I didn't see -- the dog was up in the  
21 yard, and I didn't see -- there was no dog or  
22 anything around during the bicycle accident.

23 Q. As far as your recollection at the time,  
24 when you were outside with LaRue and with Beau,  
25 the dog -- my understanding is that Beau wasn't o

1 Q. Beau was out in the yard -- at the time  
2 this accident occurred, Beau was out in the yard  
3 with you and your father?

4 A. Yes.

5 Q. Your father is Frank?

6 A. Yes.

7 Q. You and your father, Frank, were loading  
8 some scrap, siding, whatever it was, into a  
9 dumpster that you had on your property; is that  
10 right?

11 A. Yes.

12 Q. At that time Beau, he didn't have a leash  
13 on him, correct?

14 A. Correct.

15 Q. He wasn't secured to a post in the yard  
16 with a chain?

17 A. No.

18 Q. He was just roaming around the yard?

19 A. No, he wasn't roaming.

20 Q. What was he doing?

21 A. We're never that far away from that dog,  
22 that dog is like -- he is a member of the family,  
23 and if anything happened to him, Matthew would  
24 be --

25 Q. He would be devastated?

14  
1 A. Right. We were up at the siding pile  
2 where -- and the dog was laying on the ground  
3 taking a nap before it took the ...

4 Q. But he wasn't secured to you by a leash,  
5 or a chain, or --

6 A. No.

7 Q. You're saying here -- now if you could  
8 read that for me. If you could read paragraph 10,  
9 the sub paragraphs A, C and E, please.

10 Thank you. Now, in these paragraphs,  
11 sir, I'm understanding in this that basically  
12 you're admitting that the dog was not secured by a  
13 leash or a harness, which we've already talked  
14 about?

15 A. It had a harness on.

16 Q. But it --

17 A. The harness was not attached.

18 Q. By a harness, you just mean a collar?

19 A. No, that dog has a full harness.

20 Q. But it wasn't attached to anything?

21 A. No.

22 Q. What you're saying in these paragraphs is  
23 that basically you relied upon, it says, the past  
24 training and voice commands to keep the dog with  
25 them on their property; is that right?

1 BY MR. MOHNEY:

2 Q. Mr. Krach, I just have a few more  
3 questions here.

4 Do you have -- around the yard where your  
5 house is, on the house side of Schuckers Orchard  
6 Road, do you have a fence around your property?

7 A. It's just an ornamental fence and  
8 shrubbery.

9 Q. But it doesn't -- does it -- is it along  
10 the road or is it somewhere else in the yard?

11 A. No, it's along the road. But it's not  
12 consistent.

13 Q. So there are breaks in the fence.

14 A. There are breaks in it, it is just  
15 ornamental shrubbery and --

16 Q. It's not a fence to keep someone on your  
17 property or keep someone off your property?

18 A. No.

19 Q. There is no invisible dog fence, I'm  
20 taking it, underneath -- you know how they have  
21 those underground dog fences --

22 A. No.

23 Q. -- Beau wasn't utilizing one of those?

24 My understanding is that at the time of  
25 this incident, which was August 24th of 2006,

# La Rue Krach

17

1 A. Right.

2 Q. So I'm assuming from that --

3 A. But I looked up immediately.

4 Q. You couldn't have given a voice command  
5 to Beau saying get away from the road, or Beau,  
6 here, before the accident, because you didn't see  
7 it, right?

8 A. Well, I think -- I'm not sure, but I  
9 think when we left, when the dog was laying in the  
10 yard, I think I told him to stay.

11 Q. Okay. That would have been sometime  
12 before --

13 A. Yeah.

14 Q. -- his bicycle --

15 A. This was long before I knew anything.

16 Q. Okay. So the next thing you know,  
17 basically from loading the stuff into the  
18 dumpster, is that you hear him falling on his  
19 bicycle?

20 A. Yes.

21 Q. Do you remember where Beau was -- so  
22 what's the first thing you did when you heard him  
23 going down on the bicycle, Mr. Barr?

24 A. I looked up.

25 Q. Okay.

1           A.     Well, probably 15, 20 feet in the yard.

2           Q.     Did the dog run out on the road to where  
3     he was laying when you and your dad went over to  
4     see if he was okay?

5           A.     No, no. Actually, he was up in where we  
6     left him when Mr. Barr got up. Of course, as Beau  
7     always does, he was barking and whatnot. And I  
8     stayed down and talked to Mr. Barr, and my father  
9     went up and put him in the house.

10          Q.     Put the dog in the house?

11          A.     Yes.

12          Q.     I think in some of the stuff that I read,  
13     I know you talked to Mr. Marshall, who works for  
14     the insurance company. And I was at the hearing  
15     in front of the dog law enforcement officer, dog  
16     warden, whatever her title was, with District  
17     Justice Ford. So I heard you testify there.

18           Your theory of this case -- well, I don't  
19     want to put words in your mouth, so I'll ask you,  
20     what is your theory on how he wrecked his bicycle?  
21     I know you didn't see it.

22          A.     I think he got startled and spiked the  
23     brakes. Being a carbon fiber bike -- I seen the  
24     bike, nobody looked at the bike, but I seen the  
25     bike, and it was snapped off, just the forks --

1 Q. The front forks were snapped off?

2 A. Right straight, there was no jagged  
3 edges, nothing.

4 Q. What's that mean to you?

5 A. Well, I think he got startled and spiked  
6 the front brakes and went right out over it. That  
7 is also the position he was on the road.

8 Q. You think he got startled by Beau barking  
9 at him?

10 A. Yes.

11 Q. Alongside the road?

12 A. There is a lilac bush there. And like I  
13 said, that's more or less where Beau was, and I  
14 think he got startled, spiked the brakes, and ...

15 Q. That's just what you believe, you don't  
16 know, because you didn't see it?

17 A. Right. If we all would put video cameras  
18 in front of our house, then we would know these  
19 things.

20 Q. That would be one way.

21 MR. MOHNEY: If we can just go off the  
22 record for a minute, I just have to review a few  
23 things.

24 (Off the record.)

25 ///

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

DAVID W. BARR and RITA M.  
BARR

PLAINTIFFS,

VS.

LaRUE A. KRACH and  
MARILYN J. KRACH

DEFENDANTS.

CIVIL DIVISION

NO. 07 - 107 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING: CERTIFICATE  
OF SERVICE

FILED ON BEHALF OF: PLAINTIFFS

COUNSEL OF RECORD:  
CHRISTOPHER E. MOHNEY, ESQUIRE

SUPREME COURT NO.: 63494

CHRISTOPHER E. MOHNEY, ESQUIRE  
25 EAST PARK AVENUE, SUITE 6  
DUBOIS, PA 15801  
(814) 375-1044

**FILED**

OCT 17 2007  
W/10:50/0  
William A. Shaw  
Prothonotary/Clerk of Courts  
No 1/1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

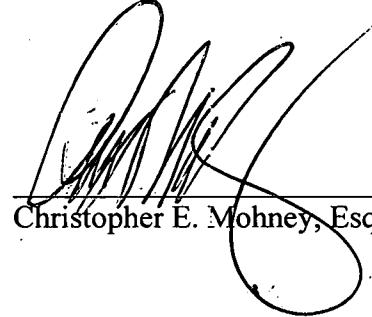
DAVID W. BARR and RITA :  
M. BARR : CIVIL DIVISION  
: :  
PLAINTIFFS, : NO. 07-107 - C.D.  
: :  
VS. : :  
: :  
LaRUE A. KRACH and :  
MARILYN J. KRACH : :  
: :  
DEFENDANTS. : :

**CERTIFICATE OF SERVICE**

I, Christopher E. Mohney, Esquire, do hereby certify that on this 15<sup>th</sup> day of October, 2007, I caused to be served by First Class United States Mail, postage prepaid, true and correct copy of Motion for Partial Summary Judgment on the following:

R. Denning Gearhart, Esquire  
207 East Market Street  
Clearfield, PA 16830

By:

  
Christopher E. Mohney, Esquire

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

No. 07-107-CD

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

FILED 3cc AM  
012:20 pm Gearhart.  
NOV 13 2007

William A. Shaw  
Prothonotary/Clerk of Courts

CASE NUMBER: 07-107-CD

TYPE OF PLEADING: **ANSWER TO MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

FILED ON BEHALF OF: Defendants

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire  
Supreme Court ID#: 26540  
207 East Market Street  
Clearfield, PA 16830  
814-765-1581

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

No. 07-107-CD

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

ANSWER TO MOTION FOR PARTIAL SUMMARY JUDGMENT

AND NOW, comes LaRue A. Krach and Marilyn J. Krach, by and through their attorney, R. Denning Gearhart, Esq., who Answers the Motion for Partial Summary Judgment as follows:

1. Admitted.
2. Admitted. However, for purposes of further argument, it should be noted that the dog's owner, Matthew Krach, is believed to have had an insurance policy, which covered any damages caused by his dog whether in his possession or not.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Denied. Plaintiffs' averment draws conclusions without basis. That while neither the Defendants nor Frank Albert Krach saw the accident occur, they did see their son's dog and would have been aware of any activity of that dog.

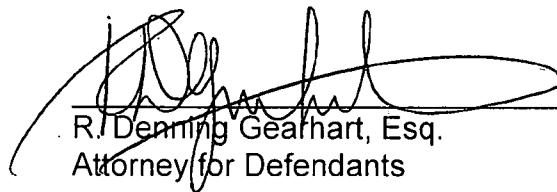
10. Denied. Again, Plaintiffs are taking liberties with the facts of record and the law. While not controlling the dog may have been negligent, that does not necessarily mean that the dog was the cause of the accident. The dog would not need to confront or advance or interfere with the Plaintiff in order to bark loudly, and it is asserted that the loud bark may have been what startled the Plaintiff causing him to spike his brakes.

11. Admitted.

12. Calls for a conclusion of law.

13. Calls for a conclusion of law.

Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Defendants

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

No. 07-107-CD

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

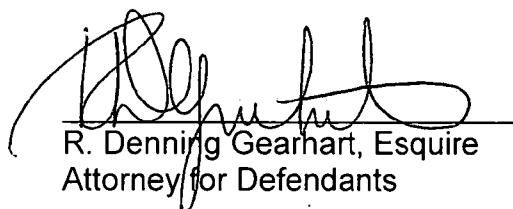
**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has on this date served a true and correct copy of the Defendants' Answer to Motion for Partial Summary Judgment filed in the above-captioned matter on the Plaintiffs, by and through their attorney, Christopher E. Mohney, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Christopher E. Mohney, Esquire  
25 East Park Avenue, Suite 6  
DuBois, PA 15801

And by Faxing a certified copy of the same to Attorney Mohney at 814-375-1088.

Date: November 13, 2007



R. Denning Gearhart, Esquire  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION No.07-107-CD

DAVID W. BARR and  
RITA M. BARR, Plaintiffs

vs.

LARUE A. KRACH and  
MARILYN J. KRACH,  
Defendants

ANSWER TO MOTION FOR PARTIAL  
SUMMARY JUDGMENT

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

**FILED**

NOV 13 2007

William A. Shaw  
Prothonotary/Clerk of Courts

CLEARFIELD  
JEFFERSON COUNTY

**COURT OF COMMON PLEAS OF JEFFERSON COUNTY  
CIVIL TRIAL LISTING**

07-107-CD

CERTIFICATE OF READINESS		TO THE PROTHONOTARY	
(To be executed by Trial Counsel Only)		1/16/07 DATE PRESENTED	
CASE NUMBER  07-107-C.D. Date Complaint filed: Jan. 23, 2007	TYPE TRIAL REQUESTED  (X) Jury ( ) Non-jury ( ) Arbitration	ESTIMATED TRIAL TIME	
		1 DAYS	

PLAINTIFF(S)

DAVID W. BARR and RITA M. BARR ( )

DEFENDANT(S)

LARUE A. KRACH and MARILYN J. KRACH ( )

ADDITIONAL DEFENDANT(S)

Check Block  
if a Minor  
is a Party  
to the Case

JURY DEMAND FILED BY:

Plaintiffs

DATE JURY DEMAND FILED:

January 23, 2007

AMOUNT AT ISSUE

CONSOLIDATION  
greater than \$20,000.00  
\$ ( ) Yes (X) No

DATE CONSOLIDATION ORDERED

n/a

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 of Trial Counsel

Christopher E. Mohney, Esquire

FILED NO CC  
01/15/2007 NOV 16 2007 (cc)

William A. Shaw  
Prothonotary/Clerk of Courts

**COUNSEL WHO WILL ACTUALLY TRY THE CASE**

FOR THE PLAINTIFF 25 E. Park Ave., Suite 6, DuBois, PA 15801	TELEPHONE NUMBER 814-375-1044
FOR THE DEFENDANT 207 E. Market St., Clearfield, PA 16830	TELEPHONE NUMBER 814-765-1581
FOR ADDITIONAL DEFENDANT	TELEPHONE NUMBER

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

DAVID W. BARR and RITA M.  
BARR

-vs-

No. 07-107-CD

LARUE A. KRACH and MARILYN  
J. KRACH

O R D E R

AND NOW, this 16th day of November, 2007,  
following argument on Motion for Partial Summary Judgment,  
it is the ORDER of this Court that both parties shall  
submit letter brief to the Court, if they so desire, within  
no more than thirty (30) days from today's date.

BY THE COURT,

Paul E. Cleary

Judge

FILED <sup>2cc</sup>  
09/16/2007 Atty's Mohney  
NOV 20 2007 Gearhardt

William A. Shaw  
Prothonotary/Clerk of Courts

(6K)

**FILED**

NOV 20 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 11/20/07

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs

vs.

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants

\*  
\*  
\*  
\*  
\*

NO. 07-107-CD

ORDER

AND NOW, this 19th day of November, 2007, it is the ORDER of the Court  
that a Pre-Trial Conference in the above matter shall be held on the **18<sup>th</sup> day of**  
**December, 2007, in Chambers at 3:00 o'clock p.m.** Additionally, Jury Selection in  
this matter will be held on January 3, 2008.

BY THE COURT,

  
PAUL E. CHERRY  
Judge

FILED  
01/10/2008  
NOV 20 2007  
cc Attns:  
Mohney  
Gearhart

William A. Shaw  
Prothonotary/Clerk of Courts

(6K)

**FILED**

NOV 20 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 11/20/07

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

No. 07-107-CD

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

**FILED**

DEC 11 2007

01/11/2008  
William A. Shaw  
Prothonotary/Clerk of Courts

100-41C

CASE NUMBER: 07-107-CD

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendants

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire  
Supreme Court ID#: 26540  
207 East Market Street  
Clearfield, PA 16830  
814-765-1581

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

v.

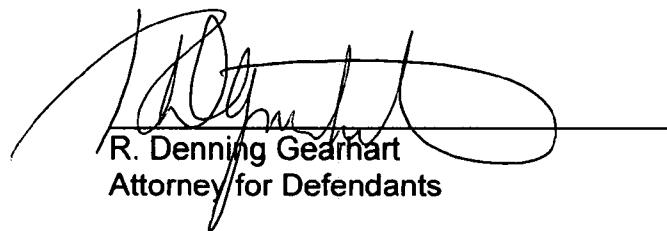
No. 07-107-CD

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has on this date served a true and correct copy of Defendants' Pretrial Statement filed in the above matter on the Plaintiffs through Plaintiffs' attorney by depositing such documents in the United States Mail, first class, postage pre-paid and addressed as follows:

Christopher E. Mohney  
25 East Park Avenue, Suite 6  
DuBois, PA 15801



R. Denning Gearhart  
Attorney for Defendants

Dated: December 11, 2007

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

DAVID W. BARR and RITA M. BARR,  
Plaintiffs,

No. 03-107-CD

v.

LARUE A. KRACH and MARILYN J. KRACH,  
Defendants.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a true and  
correct copy of Defendants' Petition Statement filed in the above matter on the Plaintiff's  
through Plaintiff's attorney by depositing such documents in the United States Mail, first  
class, postage pre-paid and addressed as follows:

Christoper E. Motley  
28 East Park Avenue, Suite 6  
Dubois, PA 15801

R. Donald Geary  
Attorney for Defendants

Dated: December 11, 2003

William A Shaw  
Prothonotary/Clerk of Courts

DEC 11 2007

FILED

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

DAVID W. BARR and RITA M. BARR : NO. 07-107-CD

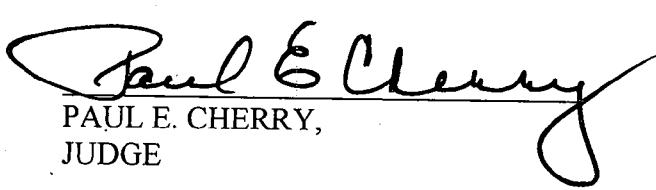
V. :

MARILYN J. KRACH :

**ORDER**

1. Jury Selection in this matter is scheduled for January 3, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for February 14, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days prior to the commencement of trial.
4. The deadline for submitting any and all Motions shall be by and no later than thirty (30) days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

BY THE COURT,

  
PAUL E. CHERRY,  
JUDGE

FILED 200 Atlys:  
01/14/2007 Mohney  
DEC 19 2007 Gearhart

William A. Shaw  
Prothonotary/Clerk of Courts

(GP)

**FILED**

**DEC 19 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 12/19/07

       You are responsible for serving all appropriate parties.

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

       Plaintiff(s) X Plaintiff(s) Attorney        Other

       Defendant(s) X Defendant(s) Attorney

       Special Instructions:

VA

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

DAVID W. BARR and RITA M. BARR : NO. 07-107-CD

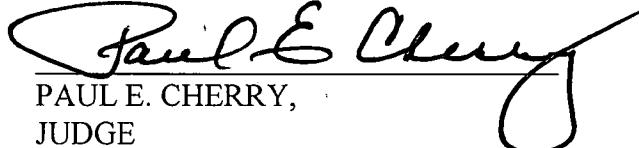
V. :

LaRUE A. KRACH and  
MARILYN J. KRACH :

**ORDER**

AND NOW, this 2<sup>nd</sup> day of January, 2008, following hearing on the Motion for Partial Summary Judgment filed on behalf of Plaintiffs and in consideration of the pleadings, depositions and arguments of counsel, it is the finding of this Court that there is no genuine issue as to any material fact with the exception of the amount of Plaintiffs' damages, and that Plaintiffs are entitled to judgment at such amount as shall be found to be due to their respective damages. It is the ORDER of this Court that Summary Judgment shall be and is hereby entered in favor of Plaintiffs and against the Defendants and this matter shall be tried on the sole issue of damages before a jury.

BY THE COURT,

  
PAUL E. CHERRY,  
JUDGE

**FILED**

01/08/2008 2cc Atlys:  
JAN 03 2008 Mohney

William A. Shaw  
Prothonotary/Clerk of Courts  
Gearhart

(GK)

**FILED**

JAN 03 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/3/08

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  
CIVIL DIVISION

DAVID W. BARR and  
RITA M. BARR,

Plaintiffs,

VS.

LaRUE A. KRACH and  
MARILYN J. KRACH

Defendants.

NO. 07-107-CD

Type of Case: CIVIL

Type of Pleading:  
MOTION IN LIMINE

Filed on Behalf of: PLAINTIFFS

Counsel of Record:  
CHRISTOPHER E. MOHNEY,  
ESQUIRE

SUPREME COURT NO.: 63494

25 EAST PARK AVENUE  
SUITE 6  
DUBOIS, PA 15801  
(814) 375-1044

FILED 2cc  
19/01/2008 Atty Mohney  
JAN 07 2008  
(68)

William A. Shaw  
Prothonotary/Clerk of Courts

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

DAVID W. BARR and  
MARILYN J. KRACH,

Plaintiffs,

vs.

NO. 07-107-CD

LaRUE A. KRACH and  
MARILYN J. KRACH,

Defendants.

ORDER

AND NOW, this 7<sup>th</sup> day of January, 2008, upon consideration of Motion in Limine of Plaintiffs DAVID W. BARR and RITA M. BARR, it is hereby **ORDERED** and **DECREED** that a hearing is scheduled for the 24<sup>th</sup> day of January, 2008 at 1:30 o'clock P.M. in Courtroom #2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

  
HONORABLE PAUL E. CHERRY

FILED *2cc*  
01/13/08 Atty Mohney  
JAN 08 2008  
(GR)

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

JAN 08 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/8/08

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  
CIVIL DIVISION

DAVID W. BARR and  
RITA M. BARR,

Plaintiffs,

vs.

NO. 07-107-CD

LaRUE A. KRACH and  
MARILYN J. KRACH

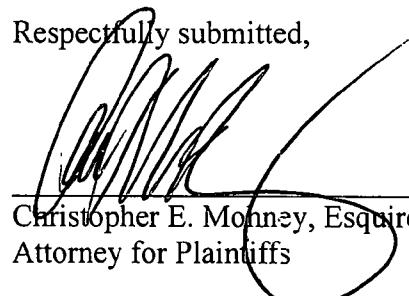
Defendants.

AND NOW, come Plaintiffs **DAVID W. BARR and RITA M. BARR**, by and through their attorney, **CHRISTOPHER E. MOHNEY, ESQUIRE**, and files the following Motion in Limine, of which a statement is as follows:

1. Attached to this Motion and marked Exhibit "A" is copy of Order granting Plaintiffs judgment as to liability in this case.
2. Trial is scheduled for February 14, 2008.
3. Mr. and Mrs. Barr are requesting this Court for an Order prohibiting Defendants, or any witness called on behalf of Defendants, to testify or otherwise present evidence as to his or her opinion as to how the bicycle wreck suffered by Mr. Barr occurred, or otherwise deny that the dog in the sole care and custody of the Defendants caused Mr. Barr to wreck his bicycle.
4. Pursuant to Pa.R.E. 103 and case law, a party may move in limine to admit or exclude evidence.

WHEREFORE, Plaintiffs DAVID W. BARR and RITA M. BARR pray that your Honorable Court rule on the parameters of any testimony and/or evidence presented by or on behalf of Defendants LaRUE A. KRACH and MARILYN J. KRACH.

Respectfully submitted,

  
Christopher E. Monney, Esquire  
Attorney for Plaintiffs

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

DAVID W. BARR and RITA M. BARR : NO. 07-107-CD

V. :

LaRUE A. KRACH and :  
MARILYN J. KRACH :  
:

**ORDER**

AND NOW, this 2<sup>nd</sup> day of January, 2008, following hearing on the Motion for Partial Summary Judgment filed on behalf of Plaintiffs and in consideration of the pleadings, depositions and arguments of counsel, it is the finding of this Court that there is no genuine issue as to any material fact with the exception of the amount of Plaintiffs' damages, and that Plaintiffs are entitled to judgment at such amount as shall be found to be due to their respective damages. It is the ORDER of this Court that Summary Judgment shall be and is hereby entered in favor of Plaintiffs and against the Defendants and this matter shall be tried on the sole issue of damages before a jury.

BY THE COURT,

*/s/ Paul E. Cherry*

---

PAUL E. CHERRY,  
JUDGE

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

JAN - 3 2008

JAN 03 2008

Attest.

Exhibit A.

*William L. Linn*  
Prothonotary/  
Clerk of Courts

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

DAVID W. BARR AND :  
RITA M. BARR :  
VS : NO. 07-107-CD  
LARUE A. KRACH AND :  
MARILYN J. KRACH :

O R D E R

NOW, this 24th day of January, 2008, this being the date set for argument on the Motion in Limine filed on behalf of the Plaintiffs, David W. Barr and Rita M. Barr, defendants having voiced no opposition to same, it is the Order of this Court that said Motion shall be and is hereby GRANTED.

It is the Order of this Court that the defendants and/or any witness that may be called on behalf of the defendants shall be and are hereby prohibited from testifying or otherwise presenting evidence as to his or her opinion as to how the bicycle wreck occurred. It is the further Order of this Court that the defendants and any witness called on behalf of the defendants shall be and are hereby prohibited from denying that the dog was in the sole care and custody of the defendants and are prohibited from denying that the dog caused Mr. Barr to wreck his bicycle.

FILED  
01/31/08  
JAN 28 2008

William A. Shaw  
Prothonotary/Clerk of Courts

200A44ys:  
Mohney  
Gearhart

OK

BY THE COURT  
*Paul E. Cleary*  
Judge

**FILED**

JAN 28 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/28/08

       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, PENNSYLVANIA  
CIVIL DIVISION

DAVID W. BARR and RITA M. BARR, : NO. 07-107-C.D.  
| PLAINTIFFS : TYPE OF CASE: CIVIL  
| VS. : TYPE OF PLEADING: NOTICE  
| : OF DEPOSITION  
LaRUE A. KRACH and MARILYN J. : FILED ON BEHALF OF: PLAINTIFFS  
KRACH :  
| : COUNSEL OF RECORD:  
| : CHRISTOPHER E. MOHNEY, ESQUIRE  
DEFENDANTS :  
| : 25 EAST PART AVENUE  
| : SUITE 6  
| : DUBOIS, PA 15801  
| : 814-375-1044

FILED  
M 19 NOV 2008  
FEB 11 2008  
GK

William A. Shaw  
Prothonotary/Clerk of Courts

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

DAVID W. BARR and RITA M. BARR, : NO. 07 – 107 – C.D.  
: :  
PLAINTIFFS, : TYPE OF CASE: CIVIL  
: :  
VS. : :  
: :  
LaRUE A. KRACH and MARILYN J. : :  
KRACH, : :  
: :  
: :  
DEFENDANTS : :

**NOTICE OF DEPOSITION**

TO: LaRUE A. KRACH and MARILYN J. KRACH  
c/o R. Denning Gearhart, Esquire  
207 Market Street  
Clearfield, PA 16830

PLEASE TAKE NOTICE that on **Tuesday, February 12, 2008 at 3:00 p.m.** Plaintiffs, by the undersigned, will take the oral deposition of Eduardo C. Lomibao, M.D. at the Pain Management Clinic, DuBois Regional Medical Center – West, Medical Arts Building, 2<sup>nd</sup> Floor, 145 Hospital Avenue, DuBois, Pennsylvania 15801 before a person authorized by law to administer oaths. This deposition is being taken for the purpose of discovery and for use at trial, pursuant to the Pennsylvania Rules of Civil Procedure governing discovery.

Respectfully submitted,

BY:  
Christopher E. Mohney, Esquire

Dated: February 8, 2008

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

DAVID W. BARR and RITA M. BARR, : NO. 07-107-C.D.  
: :  
PLAINTIFFS, : TYPE OF CASE: CIVIL  
: :  
VS. : :  
: :  
LaRUE A.KRACH and MARILYN J. : :  
KRACH : :  
: :  
: :  
DEFENDANTS : :

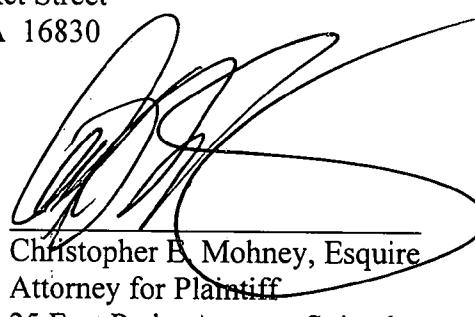
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Deposition of Eduardo C. Lomibao, M.D. has been served upon the following individual by regular United States mail, postage prepaid, on this 8<sup>th</sup> day of February, 2008, and by facsimile to 814.765.8142:

R. Denning Gearhart, Esquire  
207 East Market Street  
Clearfield, PA 16830

BY:

Christopher B. Mohney, Esquire  
Attorney for Plaintiff  
25 East Parke Avenue, Suite 6  
DuBois, PA 15801  
(814) 375-1044



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

DAVID W. BARR and  
RITA M. BARR,  
Plaintiffs

V.

LaRUE A. KRACH and  
MARILYN J. KRACH,  
Defendants

NO. 07-107-CD

**FILED**

FEB 15 2008

079-307-6K

William A. Shaw  
Prothonotary/Clerk of Courts

**VERDICT SLIP**

Question 1:

Was the Krachs' negligence a factual cause in bringing about the injuries suffered by David W. Barr?

Yes ✓ No \_\_\_\_\_

(If you answered Question 2 "No", Mr. Barr cannot recover any money damages and you should not answer any further questions. If you answered "Yes", you should answer Questions 2 and 3).

Question 2:

If you answered "Yes" to Question 1, state the amount of damages sustained by David W. Barr as a result of his bicycle wreck that is the subject of this case:

Damages \$ 15500.00

Question 3:

If you answered "Yes" to Question 1, state the amount of the damages sustained by Rita M. Barr as a result of her husband's bicycle wreck that is the subject of this case:

Loss of consortium: \$ 7700.00

Date: 2/14/08

David P. Barr  
Jury Foreperson:

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

**CASE NO. 07-107-CD**

**Date of Jury Selection: January 3, 2008**

**Presiding Judge: Paul E. Cherry, Judge**

**David W. Barr and Rita M. Barr**

**Court Reporter: Tom Snyder**

**VS**

**Date of Trial: February 14, 2008**

**LaRue A. Krach and Marilyn J. Krach**

**Date Trial Ended: February 14, 2008**

**MEMBERS OF THE JURY**

**1. Alikay Charles  
2. Joyce Farley  
3. James Gray  
4. Barbara McBride  
5. Daniel Reardon  
6. Jana Wilcox  
ALT #1 Rosella Butler**

**7. Jami Hollenbaugh  
8. Esther Neeper  
9. Leslie Canter  
10. Richard Smay  
11. Jane Zipf  
12. Kathleen Welch  
ALT #2 Lyle Domico**

**PLAINTIFF'S WITNESSES:**

**1. David Barr  
2. Dr. Galinda Jeffers, D.O.  
3. Dr. Eduardo Geronimo  
4. Rita Barr  
5.  
6.**

**DEFENDANT'S WITNESSES:**

**1. None  
2.  
3.  
4.  
5.  
6.**

**PLAINTIFF'S ATTY: Christopher E. Mohney Esq**

**DEFENDANT'S ATTY: R. Denning Gearhart Esq**

**ADDRESS TO JURY: 11:05 am**

**ADDRESS TO JURY: 11:03 am**

**JUDGE'S ADDRESS TO JURY: 11:18 am**

**JURY OUT: 11:46 am JURY IN: 12:20 pm**

**VERDICT: Plaintiff - See verdict slip**

**FOREPERSON: # 5**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID W. BARR and RITA M.  
BARR,

Plaintiffs,

vs.

LaRUE A. KRACH and MARILYN  
J. KRACH

Defendants.

: NO. 07 - 107 - C.D.

: Type of Case: CIVIL

: Type of Pleading: PRAECIPE FOR  
ENTRY OF JUDGMENT

: Filed on Behalf of: PLAINTIFFS

: Counsel of Recrd:  
CHRISTOPHER E. MOHNEY, ESQUIRE

: SUPREME COURT NO.: 63494

: 25 EAST PARK AVENUE, SUITE 6  
DUBOIS, PA 15801  
(814) 375-1044

FILED <sup>(6)</sup>  
Atty pd. 20.00  
01/04/08  
FEB 26 2008 2cc & 2 Notices  
to Atty Mohney  
William A. Shaw  
Prothonotary/Clerk of Courts  
Statement to Atty  
Mohney  
Notice to Atty Gearhart

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID W. BARR and RITA M.  
BARR,

Plaintiffs,

vs.

NO. 07 - 107 - 2007

LaRUE A. KRACH and MARILYN  
J. KRACH,

Defendants.

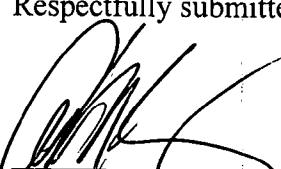
**PRAECIPE FOR ENTRY OF JUDGMENT**

To William A. Shaw, Sr., Prothonotary:

Please enter judgment in favor of the plaintiffs and against the defendants on the jury  
verdict entered February 14, 2008, no timely posttrial motions having been filed.

Respectfully submitted,

By:

  
Christopher E. Mohney, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID W. BARR and RITA M. :  
BARR, :  
: Plaintiffs, :  
vs. : NO. 07 - 107 - 07  
: :  
LaRUE A. KRACH and :  
MARILYN J. KRACH, :  
: Defendants. :  
:

**CERTIFICATE OF SERVICE**

I, Christopher E. Mohney, Esquire, do hereby certify that on this 26<sup>th</sup> day of February, 2008, I caused to be served by facsimile and United States mail a true and correct copy of the aforementioned Praeclipe for Entry of Judgment on the following:

R. Denning Gearhart, Esquire  
207 Market Street  
Clearfield, PA 16830  
(Attorney for Defendants)



Christopher E. Mohney, Esquire

COPY

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

David W. Barr and Rita M. Barr

Vs.

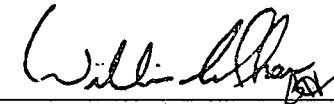
No. 2007-00107-CD

LaRue A. Krach and Marilyn J. Krach

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered  
against you in the amount of \$23,200.00 on February 26, 2008.

William A. Shaw  
Prothonotary



William A. Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
STATEMENT OF JUDGMENT

COPY

David W. Barr  
Rita M. Barr  
Plaintiff(s)

No.: 2007-00107-CD

Real Debt: \$23,200.00

Atty's Comm: \$

Vs.

Costs: \$

LaRue A. Krach  
Marilyn J. Krach  
Defendant(s)

Int. From: \$

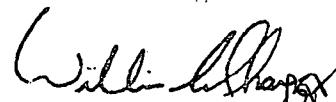
Entry: \$20.00

Instrument: Verdict Judgment

Date of Entry: February 26, 2008

Expires: February 26, 2013

Certified from the record this 26th day of February, 2008.



William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment,  
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

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

DAVID W. BARR and RITA M. BARR, : NO. 07 - 107 - C.D.  
: :  
PLAINTIFFS : TYPE OF CASE: CIVIL  
: :  
VS. : TYPE OF PLEADING: PRAECIPE  
: : TO MARK JUDGMENT SATISFIED  
: :  
LaRUE A. KRACH and MARILYN J. : FILED ON BEHALF OF: PLAINTIFFS  
KRACH : :  
: :  
: : COUNSEL OF RECORD:  
: : CHRISTOPHER E. MOHNEY, ESQUIRE  
: :  
DEFENDANTS : :  
: : 25 EAST PART AVENUE  
: : SUITE 6  
: : DUBOIS, PA 15801  
: : 814-375-1044

FILED pd \$7.00 AAA  
03:40pm No cc + 1 Cert of  
MAR 17 2008 Sat to AAA Mohney

William A. Shaw  
Prothonotary/Clerk of Courts

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

DAVID W. BARR and RITA M. BARR,	:	NO. 07-107-C.D.
PLAINTIFFS,	:	TYPE OF CASE: CIVIL
VS.	:	
LaRUE A. KRACH and MARILYN J.	:	
KRACH,	:	
DEFENDANTS	:	

## **PRAECIPE TO MARK JUDGMENT SATISFIED**

TO: WILLIAM A. SHAW, SR., PROTHONOTARY:

Please mark the judgment entered in favor of Plaintiffs in the above-captioned case as being "SATISFIED" upon payment in full of your costs.

Respectfully submitted,

Christopher E. Mohney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

*COPY*

CIVIL DIVISION

**CERTIFICATE OF SATISFACTION OF JUDGMENT**

No.: 2007-00107-CD

David W. Barr

Rita M. Barr

Debt: \$32,200.00

Vs.

Atty's Comm.:

LaRue A. Krach

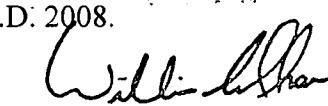
Marilyn J. Krach

Interest From:

Cost: \$7.00

NOW, Monday, March 17, 2008 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 17th day of March, A.D. 2008.

  
\_\_\_\_\_  
Prothonotary