

08-1955-CD
Deborah Hewitt al vs Cody Caracciolo

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,

Plaintiffs,

vs.

CODY CARACCIOLLO,

Defendant.

CIVIL DIVISION

NO. 08-1955-CD

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

JAY N. SILBERBLATT, ESQUIRE
Pa. I.D. #32253

SILBERBLATT MERMELSTEIN, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 232-0580

s
FILED
18:40 AM
OCT 14 2008
Atty pd 95.00
William A. Shaw
Prothonotary/Clerk of Courts

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

**CLEARFIELD COUNTY PROTHONOTARY
P.O. BOX 549
CLEARFIELD, PA 16830
TELEPHONE NUMBER: 814-765-2641 (x5988)**

SIILBERBLATT MERMELSTEIN, P.C.

By 
Jay N. Silberblatt

COMPLAINT IN CIVIL ACTION

FIRST COUNT

DEBORAH HEWITT vs. CODY CARACCIOLLO

1. Plaintiffs reside at 154 53 Boulevard, Box 109, Coalport, Clearfield County, Pennsylvania 16627.

2. The Defendant resides at 2304 St. Augustine Road, Dysart, Cambria County, Pennsylvania, and on January 30, 2007, at the time of the accident hereinafter set forth, was the operator of that particular vehicle that struck the vehicle operated by the woman Plaintiff.

3. The events hereinafter set forth occurred on January 30, 2007, at or about 5:00 P.M. on Route 53, a public highway in Beccaria Township, County of Clearfield and Commonwealth of Pennsylvania.

4. At the aforementioned time and place, Route 53 was a two lane highway, with one lane running in a generally northerly direction and one lane running in a generally southerly direction.

5. At the aforementioned time and place, woman Plaintiff was lawfully and while using due care operating a vehicle in a generally northerly direction on Route 53.

6. At the aforementioned time and place, the Defendant was operating a motor vehicle in a generally southerly direction on Route 53.

7. At the aforementioned time and place, the Defendant operated his vehicle in such a reckless, careless and negligent manner so as to cause or allow the vehicle to

go onto the wrong side of the road and run into, strike and collide with the woman Plaintiff's vehicle, thereby causing the Plaintiffs to sustain certain injuries and damages as are hereinafter more fully set forth.

8. All of the resultant losses, damages and injuries sustained by the Plaintiffs were a direct and proximate result of the negligence of the Defendant, generally and in the following particulars:

- (a) In operating Defendant's vehicle at an excessive rate of speed; and/or
- (b) In operating Defendant's vehicle at an excessive rate of speed under the circumstances; and/or
- (c) In failing to watch the road in front of and to the side of Defendant's vehicle; and/or
- (d) In not looking or watching where Defendant's vehicle was being operated; and/or
- (e) In failing to have Defendant's vehicle under proper control; and/or
- (f) In failing to have the brakes and braking mechanism on Defendant's vehicle in proper working order and/or in failing to properly and promptly operate the brakes and braking mechanism; and/or
- (g) In failing to respect the rights of the woman Plaintiff to the use of the highway; and/or
- (h) In that Defendant's vehicle was operated from the proper lane of traffic into the wrong lane of traffic as to cause Defendant's vehicle to run into, strike and collide with the vehicle occupied by the woman Plaintiff; and/or
- (i) In that Defendant's vehicle was operated onto the wrong side of the highway; and/or
- (j) In failing to stop, slow down or turn aside Defendant's vehicle or to take any other action to avoid a collision; and/or

- (k) In operating Defendant's vehicle in such a reckless, careless and negligent manner so as to cause or allow Defendant's vehicle to go over onto the wrong side of the highway in the direction in which Defendant's vehicle was being operated and run into, strike and collide with the vehicle occupied by the woman Plaintiff; and/or
- (l) In operating Defendant's vehicle in violation of the Pennsylvania Motor Vehicle Code in such cases made and provided; and/or
- (m) In operating Defendant's vehicle at an excessive rate of speed in view of conditions then and there existing on the highway; and/or
- (n) In failing to stay in the proper lane of travel; and/or
- (o) In failing to maintain a sharp lookout of the road and the condition of the road.

9. As a result of the negligence of the Defendant, woman Plaintiff sustained injuries to her neck, chest, ribcage, left collarbone, left clavicle, left shoulder, left arm, hip, back, right leg and right knee, a fracture of the left clavicle and a linear vertical fracture through the medial facet of the patella, and the muscles, ligaments, tissues, tendons and nerves in, about and extending from the aforementioned portions of her body were strained, torn and dislocated, all of which are or may be serious and permanent injuries.

10. On the date of the accident and at all times pertinent hereto, the Plaintiffs carried the Full Tort Option as that term has been defined under the Pennsylvania Motor Vehicle Financial Responsibility Law.

11. As a result of her injuries, woman Plaintiff has suffered and may continue to suffer physical and mental anguish and pain, suffering and inconvenience.

12. As a result of her injuries, woman Plaintiff has suffered and may continue to suffer shock and injury to her nerves and nervous system and has suffered and may continue to suffer emotional distress.

13. As a result of her injuries, woman Plaintiff has been and/or may be deprived of the ordinary pleasures of life.

14. As a result of her injuries, woman Plaintiff has been and/or may be compelled to expend money for medical aid, medicines and the like in excess of sums recoverable under the limitations and/or provisions of the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. 1701 et seq.

15. As a result of her injuries, woman Plaintiff has been and/or may be compelled to abstain from carrying on her ordinary household duties.

16. As a result of her injuries, woman Plaintiff's earning power has been and/or may be greatly reduced, diminished and lessened.

17. As a result of her injuries, woman Plaintiff has been and/or may be compelled to abstain from carrying on woman Plaintiff's ordinary occupation.

18. As a result of her injuries, woman Plaintiff's earnings have been and/or may be greatly reduced, diminished and lessened in excess of sums recoverable under the limitations and/or provisions of the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. 1701 et seq.

19. As a result of the aforesaid collision, woman Plaintiff's vehicle was damaged and depreciated in value.

20. As a result of the aforesaid collision, woman Plaintiff has been and/or may be put to expense to have her vehicle repaired and has lost the use of the vehicle while it was being repaired.

WHEREFORE, woman Plaintiff claims of the Defendant damages in a sum in excess of **TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.**

SECOND COUNT

HARRY HEWITT, her husband vs. CODY CARACCIOLLO

21. Harry Hewitt, her husband, man Plaintiff herein, incorporates by reference paragraphs 1 through 10, inclusive, with the same force and effect as though set forth at length herein.

22. As a result of the injuries to the woman Plaintiff, man Plaintiff has been and/or may be compelled to expend money for medical aid, medicines and the like in excess of sums recoverable under the limitations and/or provisions of the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. 1701 et seq.

23. As a result of the injuries to the woman Plaintiff, man Plaintiff has been and/or may be compelled to expend money for hiring help to perform the household duties previously performed by his wife.

24. As a result of the injuries to the woman Plaintiff, man Plaintiff has been and/or may be deprived of his wife's aid, comfort, assistance, companionship and consortium.

WHEREFORE, man Plaintiff claims of the Defendant damages in a sum in excess of **TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.**

JURY TRIAL DEMANDED

SILBERBLATT MERMELSTEIN, P.C.

By _____



Jay N. Silberblatt
Counsel for Plaintiffs
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 232-0580

Dated: 10/10/08

VERIFICATION

I verify that the statements made in this Complaint are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: January 31, 2008

Deborah Hewitt
Deborah Hewitt

Date Jan. 31, 2008

Harry Hewitt
Harry Hewitt

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,

Plaintiffs,

vs.

CODY CARACCIOLLO,

Defendant.

CIVIL DIVISION

NO. 08-1955 CD

FILED

DEC 09 2008

11/05/08
William A. Shaw
Prothonotary/Clerk of Courts

No 9/10 (60)

AFFIDAVIT OF SERVICE

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

JAY N. SILBERBLATT, ESQUIRE
Pa. I.D. #32253

SILBERBLATT MERMELSTEIN, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 232-0580

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY)

BEFORE ME, the undersigned authority, personally appeared Jay N. Silberblatt, Esquire of the law firm of Silberblatt Mermelstein, P.C., attorneys for the within-named Plaintiffs, who, being sworn according to law, deposes and says that on December 5, 2008, he sent by first-class mail, postage prepaid, an Important Ten-Day Notice of Default to the Defendant, Cody Caracciolo, in the within-captioned matter. A true and correct copy of said Notice being attached hereto.

Jay N. Silberblatt

Sworn to and subscribed before me
this 5th day of December, 2008

Shancy T. Argentieri
Notary Public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY CIVIL DIVISION
HEWITT, her husband,
Plaintiffs,
vs. NO. 08-1955 CD

CODY CARACCIOLLO,
Defendant.

IMPORTANT NOTICE

TO: **Cody Caracciolo**
2304 St. Augustine Road
Dysart, PA 16636-8702

DATE OF NOTICE: December 5, 2008

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

CLEARFIELD COUNTY PROTHONOTARY
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2641 (x5988)

SILBERBLATT MERMELSTEIN, P.C.

By _____


Jay N. Silberblatt
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and
HARRY HEWITT, her husband

CIVIL DIVISION
CASE NO. 08-1955-CD

v.

CODY CARACCIOLLO

ENTRY OF APPEARANCE

FILED ON BEHALF OF DEFENDANT:

Cody Caracciolo

COUNSEL OF RECORD FOR THIS PARTY:

MICHAEL C. MASELLI, ESQ.
PA No. 62178

LAW OFFICES OF TWANDA TURNER-
HAWKINS
600 Grant Street
1180 U.S. Steel Tower
Pittsburgh, PA 15219

Telephone: (412) 255-4136

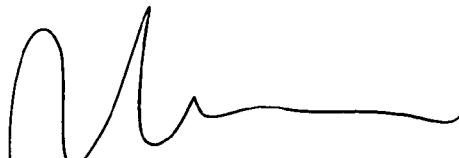
FILED
m/10/40/08
DEC 29 2008
Atty. Maselli
(60)

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I do hereby certify that on December 26, 2008 service of a true and correct copy of the within entry of appearance was made on all relevant parties or their counsel of record pursuant to Pa.R.C.P. 440.

Jay N. Silberblatt, Esquire
2904 Gulf Tower, 707 Grant Street
Pittsburgh, PA 15219
412-232-0580,
Attorney for Plaintiffs



MICHAEL C. MASELLI, ESQ.
Attorney for Defendant
Cody Caracciolo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and
HARRY HEWITT, her husband

CIVIL DIVISION
CASE NO. 08-1955-CD

V.

CODY CARACCIOLLO

**DEFENDANT'S ANSWER TO COMPLAINT
AND NEW MATTER**

FILED ON BEHALF OF DEFENDANT:

Cody Caracciolo

COUNSEL OF RECORD FOR THIS PARTY:

MICHAEL C. MASELLI, ESQ.
PA No. 62178

LAW OFFICES OF TWANDA TURNER-
HAWKINS
600 Grant Street
1180 U.S. Steel Tower
Pittsburgh, PA 15219

Telephone: (412) 255-4136

TRIAL BY JURY OF TWELVE DEMANDED

FILED cc
Dec 29 2008 Atty Maselli
DEC 29 2008

S
William A. Shaw
Prothonotary/Clerk of Courts
(60)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and
HARRY HEWITT, her husband

CIVIL DIVISION
CASE NO. 08-1955-CD

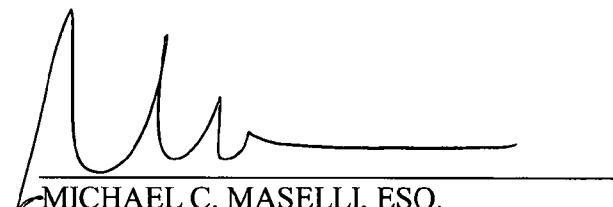
V.

CODY CARACCIOLLO

NOTICE TO PLEAD

TO: Deborah Hewitt and Harry Hewitt, Plaintiff
c/o Jay Silberblatt, Esquire

You are notified to Plead to the enclosed Answer and New Matter within 20 days from the date of service or a judgment may be entered against you.



MICHAEL C. MASELLI, ESQ.
Attorney for Defendant
Cody Caracciolo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and
HARRY HEWITT, her husband

CIVIL DIVISION
CASE NO. 08-1955-CD

V.

CODY CARACCIOLLO

**DEFENDANT'S ANSWER TO COMPLAINT
AND NEW MATTER**

Defendant, Cody Caracciolo, by and through the undersigned counsel, answers the Plaintiff's Complaint as follows:

1. DENIED. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

2. ADMITTED.

3. DENIED. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

4. ADMITTED.

5. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

6. ADMITTED.

7. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

8. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

9. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

10. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

11. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

12. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

13. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

14. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

15. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

16. (indicated as #18 on the Complaint) DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

17. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

18. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

19. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

20. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

COUNT II

21. DENIED. Defendant incorporates by reference his responses to the averments set forth in previous paragraphs as though same were fully set forth at length.

22. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

23. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

24. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

WHEREFORE, Defendant demands Judgment in his/her/their favor and against all parties.

DEFENDANT'S NEW MATTER AFFIRMATIVE DEFENSES

25. Financial Responsibility Law

All causes of action and/or claims as set forth in all Civil Action(s)/Complaints(s) are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A. 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length.

26. Limited Tort-ACT 6

All causes of action and/or claims as set forth in all Civil Actions/Complaints are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A. 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length, including but not limited to the "limited tort" provisions of Section 1705, and in accordance with the "tort option" chosen and/or elected in the policy of insurance purportedly providing coverage for the accident in question.

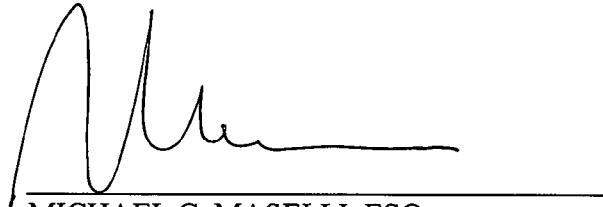
27. Limited Tort-Uninsured Owner

All causes of action and/or claims as set forth in all Civil Actions/Complaints are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length, as Plaintiff owned a currently registered private passenger motor vehicle for which they did not have financial responsibility at the time of the accident. Therefore, Plaintiff

is/are deemed to have elected the limited tort option and is thus precluded from recovering against the Defendant.

WHEREFORE, Defendant demands Judgment in his favor and against all parties.

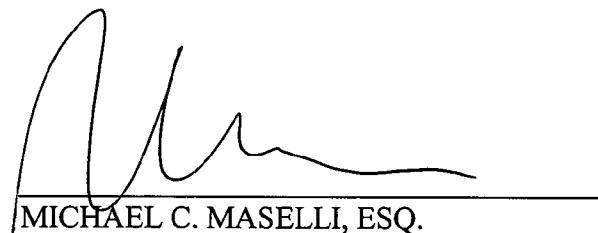
TRIAL BY JURY OF TWELVE DEMANDED.



MICHAEL C. MASELLI, ESQ.
Attorney for Defendant
Cody Caracciolo

VERIFICATION

Michael C. Maselli, Esquire, states that he is the attorney for the within named Defendant, Cody Caracciolo, and the facts set forth in the foregoing pleading are true and correct to the best of his knowledge, information, and belief; and this statement is made subject to the penalties of 18 Pa. C. §4904, relating to unsworn falsification to authorities.

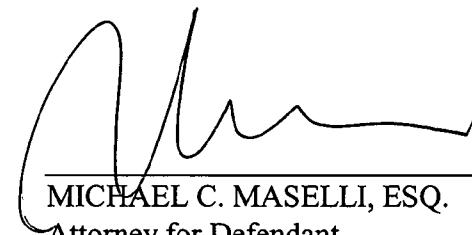


MICHAEL C. MASELLI, ESQ.
Attorney for Defendant
Cody Caracciolo

CERTIFICATE OF SERVICE

I do hereby certify that on December 26, 2008 service of a true and correct copy of the within pleading was made on all relevant parties or their counsel of record pursuant to Pa.R.C.P. 440.

Jay N. Silberblatt, Esquire
2904 Gulf Tower, 707 Grant Street
Pittsburgh, PA 15219
412-232-0580,
Attorney for Plaintiffs



MICHAEL C. MASELLI, ESQ.
Attorney for Defendant
Cody Caracciolo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104793
NO: 08-1955-CD
SERVICE # 1 OF 1
NOTICE & COMPLAINT

PLAINTIFF: DEBORAH HEWITT AND HARRY HEWITT, HER HUSBAND
vs.
DEFENDANT: CODY CARACCIOLLO

SHERIFF RETURN

NOW, October 30, 2008, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN NOTICE & COMPLAINT ON CODY CARACCIOLLO.

NOW, November 12, 2008 AT 2:25 PM SERVED THE WITHIN NOTICE & COMPLAINT ON CODY CARACCIOLLO, DEFENDANT. THE RETURN OF CAMBRIA COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

S
FILED
01/31/2009
JAN 02 2009
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104793
NO. 08-1955-CD
SERVICES 1
NOTICE & COMPLAINT

PLAINTIFF: DEBORAH HEWITT AND HARRY HEWITT, HER HUSBAND
vs.
DEFENDANT: CODY CARACCIOLLO

SHERIFF RETURN

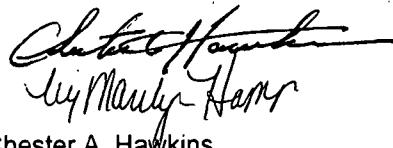
RETURN COSTS

| Description | Paid By | CHECK # | AMOUNT |
|-----------------|-------------|---------|--------|
| SURCHARGE | SILBERBLATT | 8397 | 10.00 |
| SHERIFF HAWKINS | SILBERBLATT | 8397 | 21.00 |
| CAMBRIA CO. | SILBERBLATT | 8398 | 56.10 |

Sworn to Before Me This

So Answers,

____ Day of _____ 2009


Chester A. Hawkins
Sheriff

CASE # PLAINTIFF
90337-08 HEWITT, DEBORAH 08-1955
DATE 11/12/08

DEFENDANT
CARACCIOLLO, CODY

AT 14:25 HRS. SERVED THE COMPLAINT WITH NOTICE TO DEFEND UPON CODY CARACCIOLLO BY HANDING A TRUE AND ATTESTED COPY THEREOF TO DAVE CARACCIOLLO, FATHER OF CODY, HE BEING THE PERSON IN CHARGE AT 2304 ST. AUGUSTINE RD. DYSART, PA. 16636 AND MAKING CONTENTS THEREOF KNOWN TO HIM. MY COSTS PAID BY ATTORNEY FOR PLAINTIFF.

SHERIFF'S COSTS 53.10
PRO 3.00
TOTAL COSTS 56.10

SO ANSWERS,

Bob Kalar
SHERIFF

SWORN AND SUBSCRIBED TO BEFORE ME THIS 14TH DAY OF NOV. 2008.
PRO Patty Berkely

FILED

JAN 02 2009

William A. Shaw
Prothonotary/Clerk of Courts

W.A. Shaw

PROTHONOTARY

FILED

DEC 26 2008

S 10-20/00
William A. Shaw
Prothonotary/Clerk of Courts
cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,

CIVIL DIVISION

NO. 08-1955 CD

Plaintiffs,

vs.

CODY CARACCIOLI,

Defendant.

**PETITION TO COMPEL THE
SHERIFF OF CLEARFIELD COUNTY
TO FORWARD THE RETURN OF
SERVICE TO THE PROTHONOTARY
OF CLEARFIELD COUNTY**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

JAY N. SILBERBLATT, ESQUIRE
Pa. I.D. #32253SILBERBLATT MERMELSTEIN, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 232-0580

NOTICE

TO:

**Chester Hawkins
Sheriff of Clearfield County
P.O. Box 549
Clearfield, PA 16830-0549**

**Mr. Cody Caracciolo
2304 St. Augustine Road
Dysart, PA 16636-8702**

PLEASE TAKE NOTICE that the within **Petition to Compel** was sent by first class mail this 23rd day of December, 2008 to be filed with the Prothonotary of Clearfield County. Upon receipt, the Prothonotary will forward the within Petition to the Motions Judge, Civil Division of the Court of Common Pleas of Clearfield County, Pennsylvania.

SILBERBLATT MERMELSTEIN, P.C.

BY _____



Jay N. Silberblatt

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 23rd day of December, 2008, a true and correct copy of the within Petition with attached proposed Order of Court was sent by first-class mail, postage prepaid, to the persons as listed above.



Jay N. Silberblatt

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,
Plaintiffs,

CIVIL DIVISION
NO. 08-1955 CD

vs.

CODY CARACCIOLLO,

Defendant.

**PETITION TO COMPEL THE SHERIFF OF CLEARFIELD COUNTY
TO FORWARD THE RETURN OF SERVICE
TO THE PROTHONOTARY OF CLEARFIELD COUNTY**

AND NOW, come the Plaintiffs, by their Attorneys, Jay N. Silberblatt, Esquire and the law firm of Silberblatt Mermelstein, P.C. and present the within Petition to Compel and, in pursuance thereof, respectfully represent as follows:

1. The within-captioned action was commenced by the Plaintiffs on October 14, 2008 by filing a Complaint in Civil Action with the Prothonotary of the Court of Common Pleas of Clearfield County.
2. The Plaintiff provided instructions to the Sheriff of Clearfield County to effectuate service of process upon the Defendant by Deputizing the Sheriff of Cambria County.
3. The Sheriff of Cambria County effectuated service upon the Defendant on November 12, 2008. A copy of the Return of Service provided by the Sheriff of Cambria County is attached hereto, marked as Exhibit A, and incorporated by reference herein.

4. The Sheriff of Cambria County has forwarded its original Return of Service to the Sheriff of Clearfield County.

5. The Sheriff of Clearfield County is in possession of the original Return of Service provided by the Sheriff of Cambria County.

6. The Sheriff of Clearfield County has failed to forward the original Return of Service to the Prothonotary of Clearfield County in order to appropriately mark the docket and otherwise reflect that the Defendant has been served with the Complaint.

7. The Sheriff of Clearfield County has not complied with its statutory and administrative duty in accordance with Rule 405(e).

8. The failure of the Sheriff of Clearfield County to make a Return of Service to the Prothonotary has frustrated the orderly administration of this case.

WHEREFORE, the Plaintiffs respectfully request this Honorable Court to issue an Order directing the Sheriff of Clearfield County to immediately file its Return of Service with the Prothonotary reflecting that the Defendant was served with process on November 12, 2008.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

Dated: 12/23/08

By 
Jay N. Silberblatt

12/01/2008 13:56 4721493

SHERIFF

PAGE 01/01

CASE # PLAINTIFF DEFENDANT
90337-08 HEVITT, DEBORAH 08-1955 CARACCIOLLO, CODY
DATE 11/12/08

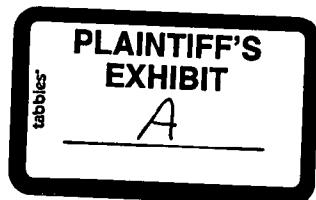
AT 14:25 HRS. SERVED THE COMPLAINT WITH NOTICE TO DEFEND UPON CODY CARACCIOLLO BY HANDING A TRUE AND ATTESTED COPY THEREOF TO DAVE CARACCIOLLO, FATHER OF CODY, HE BEING THE PERSON IN CHARGE AT 2304 ST. AUGUSTINE RD. DYSART, PA. 16636 AND MAKING CONTENTS THEREOF KNOWN TO HIM. MY COSTS PAID BY ATTORNEY FOR PLAINTIFF.

SHERIFF'S COSTS 53.10
PRO 3.00
TOTAL COSTS 56.10

ANSWERS

Bob Kalar
SHERIFF

SWORN AND SUBSCRIBED TO BEFORE ME THIS 14TH DAY OF NOV. 2008.
PRO _____



VERIFICATION

I, Jay N. Silberblatt, Esquire, counsel of record for the Plaintiffs in the within matter, do hereby certify that the statements set forth in the foregoing Petition to Compel are true and correct to the best of my knowledge, information and belief, these being legal matters and more within my knowledge and purview as counsel for the Plaintiffs than the Plaintiffs themselves. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Jay N. Silberblatt

Dated: 12/23/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,

Plaintiffs,

vs.

CODY CARACCIOLLO,

Defendant.

CIVIL DIVISION

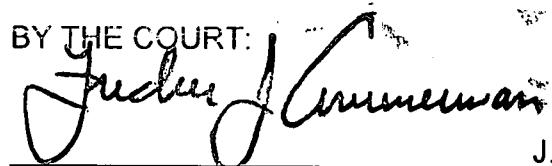
NO. 08-1955 CD

ORDER OF COURT

AND NOW, to wit, this 2nd day of JANUARY, 2009, upon presentation of the within Petition and after due and deliberate consideration of the facts contained therein, it is hereby:

ORDERED, ADJUDGED and DECREED that the Sheriff of Clearfield County shall immediately forward to the Prothonotary its Return of Service verifying that the Defendant was served with process by the Sheriff of Cambria County on November 12, 2008.

BY THE COURT:


J.

FILED 2CC
01/10/09 Atty Silberblatt
JAN 02 2009
S William A. Shaw ICC Sheriff
Prothonotary/Clerk of Courts (without memo)

DATE: 1/21/09

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

FILED

JAN 02 2009

William A. Shaw
Prothonotary/Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts
1/21/09
1/21/09
1/21/09
1/21/09

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,
Plaintiffs,

vs.

CODY CARACCIOLLO,
Defendant.

CIVIL DIVISION
NO. 08-1955-CD

**PLAINTIFFS' REPLY TO
DEFENDANT'S NEW MATTER**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

JAY N. SILBERBLATT, ESQUIRE
Pa. I.D. #32253

SILBERBLATT MERMELSTEIN, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 232-0580

FILED
M 10:43 AM
JAN 14 2009
No ce
S JAN 14 2009
60

William A. Shaw
Prothonotary/Clerk of Courts

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,
Plaintiffs,

CIVIL DIVISION
NO. 08-1955-CD

vs.

CODY CARACCIOLLO,
Defendant.

PLAINTIFFS' REPLY TO DEFENDANT'S NEW MATTER

AND NOW, come the Plaintiffs, by their attorneys, Jay N. Silberblatt, Esquire and the Law firm of Silberblatt Mermelstein, P.C. and present the within Reply to Defendant's New Matter, and, in pursuance thereof, respectfully represent as follows:

25. The allegations contained in Paragraph 25 of the Defendant's New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, the Plaintiffs incorporate by reference the allegations contained in their Complaint as though more fully set forth at length herein.

26. The allegations contained in Paragraph 26 of the Defendant's New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary,

the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, the Plaintiffs incorporate by reference the allegations contained in their Complaint as though more fully set forth at length herein.

27. The allegations contained in Paragraph 27 of the Defendant's New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, the Plaintiffs incorporate by reference the allegations contained in their Complaint as though more fully set forth at length herein. It is specifically denied that the Plaintiffs' right to recovery is barred and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law. It is further specifically asserted that Plaintiffs maintained proper financial responsibility at the time of the incident set forth in Plaintiffs' Complaint and that the Plaintiffs are classified as having elected the "Full Tort" option.

WHEREFORE, the Plaintiffs respectfully request this Honorable Court to dismiss the Defendant's New Matter and enter judgment in favor of the Plaintiffs and against the Defendant.

JURY TRIAL DEMANDED

SILBERBLATT MERMELSTEIN, P.C.

By _____


Jay N. Silberblatt
Counsel for Plaintiffs

Dated: 1/12/09

VERIFICATION

I verify that the statements made in this ~~Reply to~~^{New Matter} are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: 1-08-09

Deborah Hewitt
Deborah Hewitt

Date 1-08-09

Harry Hewitt
Harry Hewitt

CERTIFICATE OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiffs in the within matter, do hereby certify that a true and correct copy of the **Plaintiffs' Reply to Defendant's New Matter** was mailed by first class mail, postage prepaid, on the 12 day of January, 2009 to the following person:

Michael C. Maselli, Esquire
Law Offices of Twanda Turner-Hawkins
600 Grant Street
Suite 1180 US Steel Tower
Pittsburgh, PA 15219
Attorney for Defendant
Cody Caracciolo

SILBERBLATT MERMELSTEIN, P.C.

By _____


Jay N. Silberblatt
Attorney for Plaintiffs

FILED

APR 03 2009

William A. Shaw
Prothonotary/Clerk of Courts

APR 4/10 6/10
2009

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and
HARRY HEWITT, her husband,

Plaintiffs,

vs.

CODY CARACCIOLI,

Defendant.

CIVIL DIVISION

No. 08-1955-CD

**VERIFICATION OF SERVICE OF
PLAINTIFFS' REQUEST FOR
PRODUCTION OF DOCUMENTS
DIRECTED TO THE DEFENDANT**

Filed on Behalf of Plaintiffs

Counsel of Record for this Party:

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and
HARRY HEWITT, her husband,

Plaintiffs,

vs.

CODY CARACCIOLLO,

Defendant.

CIVIL DIVISION

No. 08-1955-CD

VERIFICATION OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiffs in the within matter, do hereby certify that a true and correct copy of **Plaintiffs' Request for Production of Documents** was mailed by first class mail, postage prepaid, on the 31 day of March, 2009 to the following person:

Michael C. Maselli, Esquire
Law offices of Twanda Turner-Hawkins
1180 US Street Tower
600 Grant Street
Pittsburgh, PA 15219
Counsel for Defendant
Cody Caraccioolo

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By _____

Jay N. Silberblatt
Attorneys for Plaintiffs

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,
Plaintiffs,

vs.

CODY CARACCIOLLO,
Defendant.

CIVIL DIVISION

NO. 08-1955-CD

**PRAECIPE TO SETTLE
AND DISCONTINUE**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

JAY N. SILBERBLATT, ESQUIRE
Pa. I.D. #32253

SILBERBLATT MERMELSTEIN, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 232-0580

5/11/00m FILED 1 Cart of disc
MAY 05 2000 issued to
Attn: Jay Silberblatt
Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DEBORAH HEWITT and HARRY
HEWITT, her husband,

CIVIL DIVISION

NO. 08-1955-CD

Plaintiffs,

vs.

CODY CARACCIOLLO,

Defendant.

PRAECIPE TO SETTLE AND DISCONTINUE

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

SIR:

Please settle and discontinue the within-captioned case and mark it off the docket or satisfy the Verdict, Award or Judgment.

(XXX) Attorney for Plaintiffs;
(XXX) Prothonotary Settle and Discontinue
with Issue Costs; and
(XXX) Certificate.

SILBERBLATT MERMELSTEIN, P.C.

By

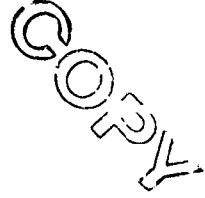

Jay N. Silberblatt
Attorneys for Plaintiffs

DATE: _____

PROTHONOTARY COSTS: _____

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION



Deborah Hewitt
Harry Hewitt

Vs.
Cody Caracciolo

No. 2008-01955-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on May 5, 2009, marked:

Settled and discontinued

Record costs in the sum of \$95.00 have been paid in full by Jay N. Silberblatt Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 5th day of May A.D. 2009.

William A. Shaw, Prothonotary

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

LISA HUDSON,
Plaintiff

: NO. 08-2040-CD

V.
ASHLEY HUDSON,
JONATHAN ROSENTHAL,
DANIEL A. SNYDER and
JUDY L. SNYDER,
Defendants

FILED

MAY 01 2009
S 01 2:30 PM (10)
William A. Shaw
Prothonotary/Clerk of Courts
Naddeo, K. Kubista
A. Hudson &
J. Rosenthal

A M E N D E D O R D E R

NOW, this 1st day of May, 2009, the ORDER heretofore entered, April 24, 2009, be and is hereby AMENDED to read as follows:

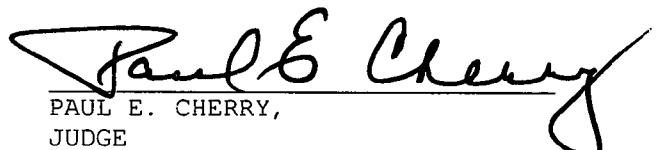
O R D E R

NOW, this 24th day of April, 2009, it is ORDERED that the **Custody Mediation Conference** be held before Allen H. Ryen, Ph.D., Licensed Child Psychologist, on **July 15, 2009, at 1:00 o'clock p.m. at the Clearfield County Courthouse**.

Please enter the Courthouse through the front door, turn left and take stairs to second floor. Courtroom No. 2 and waiting area are at the top of the stairs. Both parents, their respective counsel and the child(ren) shall attend said conference. The present custodial parent shall provide someone to attend to the child(ren) while the parent is in private conference.

FAILURE OF A PARTY TO APPEAR FOR THE MEDIATION CONFERENCE WILL RESULT IN ASSESSMENT ON THAT OFFENDING PARTY OF ALL COSTS, UNLESS SAID PARTY HAS NOTIFIED THE CLEARFIELD COUNTY COURT ADMINISTRATOR (814) 765-2641, extension 5982 AT LEAST *** SEVEN (7) *** FULL BUSINESS DAYS IN ADVANCE OF THE SCHEDULED MEDIATION CONFERENCE AND THE COURT ADMINISTRATOR HAS AGREED TO A CONTINUANCE/RESCHEDULING.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

Attorney for Plaintiff: James Naddeo, Esquire
Attorney for Defendant, Ashley Hudson: Pro-Se
Attorney for Defendant, Jonathan Rosenthal: Pro-Se
Attorney for Defendants, Daniel & Judy Snyder: Kimberly Kubista, Esquire

FILED
MAY 01 2009
William A. Shaw
Prothonotary/Clerk of Courts

5-1-09
You are responsible for serving all appropriate parties.
The Prothonotary's office has provided service to the following parties:
Plaintiff(s) Plaintiff(s) Attorney
Defendant(s) Defendant(s) Attorney Other
Special Instructions:
None
15068 & 47745
218 Plaza St
C, 1/2
Arnold, E., Reservoir, Pavilion
Arnold, D., D.,
Prod