

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Samantha Beane 2008 APR 15 PM 3:35  
Plaintiff (s)

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Barry J. Dailey II  
Defendant (s)

Civil Action No.: 02-C-3230

Petition for Appeal

The Reason behind this appeal are under reasons that I was not aware of any hearing, trial or verdict in the lawsuit brought up by Samantha Beane [plaintiff], The cause for my absence and lack of knowledge of the situation is I was not a resident of Kanawha County or any part of West Virginia. I in fact was a service member in the United States Air Force stationed in Missouri at Whiteman Air Force Base in May of 2000, during the time of the car collision and after. My personal belief is that Ms. Beane and other parties were not injured because of the car accident, I do believe that this lawsuit was the result of an attempt to collect money due to her own legal situations, that have brought on a financial burden to herself. This is entire situation has not only brought on stress to me but also to my family. Her attorney has contacted my family and has brought stress to them also. It was an unfortunate incident but personally I feel harassed by her attempts to collect money for an injury that does not exist.

**FILED**  
APR 25 2008  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

x Barry J Dailey II

**Citation:** Samantha Beane vs. Barry J Dailey II. No. 02-C-3230, CIRCUIT COURT OF THE KANAWHA COUNTY, WEST VIRGINIA, October 1, 2005, Argued, January 8, 2008, Decided

**Facts:** On the 26<sup>th</sup> day of December I the defendant Barry J Dailey II was fully stopped at the stop sign at the intersection of 7<sup>th</sup> Avenue and Beatrice Street. There were no vehicles in sight so I proceeded across the street. While I was crossing the street I was struck on the passenger side of my Chevrolet Tracker. Thomas Oxley was in operation of the 1988 Chevrolet Monte Carlo at the time of the collision. Also at which time my vehicle was at a total loss. The passenger of Mr. Oxley's vehicle was Samantha Beane.

**Issue:** Whether a plaintiff can be awarded damages if the suit was unbeknownst to the defendant as a result of poor circulation of documentation of Civil Proceedings.

**Previous History:** Civil Suit No. 02-C-3230 On the 8<sup>th</sup> of January 2008 with Honorable Judge Paul Zakaib, Jr. The decision of the court was to award damages to the plaintiff Samantha Beane.

An appeal was issued on the 25<sup>th</sup> day of April 2008 for Barry J Dailey II where Senior Status McHugh presides.

**Holding:** The decision of the court resulted in reimbursement of medical expenses. The appellant did not receive a lawful trial due to his absence and lack of knowledge of suit.

**Reasoning:** The appellant was not able to voice facts and contribute to the rulings of his case. As a result of ill communication of suit the Plaintiff was awarded damages

**Disposition:** The appellate disagrees with the opinion of the lower court from which the suit came and invalidates that opinion

