

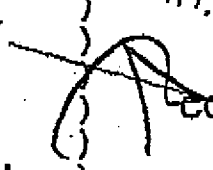
NORTH CAROLINA
GRAVEN COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
09 SEP 18 FILE NO.: 9CV01916
BY 59

BETRINA Y. JENKINS,
Plaintiff

GRAVEN COUNTY, G.S.C.

v.

BY  COMPLAINT

INELL WHIMPER-JACKSON,
Defendant.

CHESNUTT, CLEMENS, PEACOCK & LONG, ATTORNEYS AT LAW, 282-C BROAD ST., P.O. BOX 12530, NEW BERN, N.C. 28561

The Plaintiff, complaining of the Defendant, hereby avers and says as follows

1. The Plaintiff is a citizen and resident of Craven County, North Carolina
2. Upon information and belief, the Defendant, Inell Whimper Jackson (hereinafter "Jackson"), is a citizen and resident of Vanceboro, Craven County, North Carolina, and at all times herein involved in this Complaint, was the operator of a 2009 Toyota, Vehicle Identification No. 1NXBU40E09Z032268.

3. At all times herein involved in this Complaint, the Plaintiff was the owner and operator of a 1997 Toyota, Vehicle Identification No. 4T1BG22K5VU134187.

4. At all times involved in this Complaint, the Defendant Jackson was operating the 2009 Toyota with the knowledge and/or consent and/or permission of its owner, Earl Whimper.

5. On or about the 27th day of January, 2009, the Plaintiff was operating her motor vehicle traveling north on RPR 1440 near Vanceboro, Craven County, North Carolina. The Defendant was traveling behind the Plaintiff in the same lane, traveling north on RPR 1440.

6. As the Plaintiff slowed to make a left turn into a private driveway known as Mick's Lane, the Defendant failed to reduce speed and collided with the Plaintiff's vehicle. Jackson's vehicle struck the rear of the Plaintiff's vehicle. The impact of the collision caused the Plaintiff's vehicle to cross the centerline and come to rest on the left shoulder of RPR 1440 in Craven County, North Carolina.

7. At all times involved in this Complaint, the Plaintiff was operating her

CHERNIUTZ, CLEMMONS, PEACOCK & LONG, ATTORNEYS AT LAW, 225-C BROAD ST., P.O. BOX 12550, NEW BERN, N.C. 28561

motor vehicle complying with all rules of the road in effect at the time in the State of North Carolina. The Defendant Jackson was negligent in the following respects:

- a. She failed to operate her motor vehicle under proper control, in violation of the motor vehicle laws of the State of North Carolina;
- b. She failed to keep a proper lookout and failed to see what could have been seen in the exercise of due care, in violation of the motor vehicle laws of the State of North Carolina;
- c. She failed to operate her motor vehicle so as to avoid colliding with the Plaintiff's vehicle, in violation of the motor vehicle laws of the State of North Carolina;
- d. She failed to reduce speed to avoid colliding with the Plaintiff's vehicle, in violation of the motor vehicle laws of the State of North Carolina; and
- e. She was following too closely to the Plaintiff's vehicle, in violation of the motor vehicle laws of the State of North Carolina. *

8. The negligence of the Defendant Jackson was a proximate cause of the injuries sustained by the Plaintiff.

9. As a proximate result of the collision caused by the Defendant Jackson, the Plaintiff has sustained bodily injuries and suffered bodily pain in mind and spirit, which are the immediate, necessary consequences of said injuries.

10. The personal injuries hereinabove suffered and sustained by the Plaintiff were caused by the negligence of the Defendant Jackson.

11. As a direct and proximate result of the Defendant's negligence, the Plaintiff has incurred reasonable and necessary healthcare expenses, lost wages, and mental and emotional pain and suffering in an amount of \$8,500.00.

WHEREFORE, the Plaintiff prays unto the Court as follows:

- 1. That the Plaintiff have and recover from the Defendant Jackson, damages in an amount of \$8,500.00;
- 2. That the Plaintiff have and recover from the Defendant Jackson pre-judgment interest pursuant to N.C. Gen. Stat. § 24-5;
- 3. That the Plaintiff have and recover from the Defendant Jackson, the

CHESNUTT, CLEMMONS, PEACOCK & LONG, ATTORNEYS AT LAW, 225-C BRAD ST., P.O. BOX 12530, NEW BERN, N.C. 28561

costs of this action, including reasonable attorney's fees, if applicable, pursuant to N.C. Gen. Stat. § 6-21.1;

4. That the Plaintiff have and recover from the Defendant Jackson post-judgment interest according to law;

5. That the Plaintiff be entitled to Arbitration as mandated by the Rules for Court-Ordered Arbitration in North Carolina; and

6. For such other and further relief as the Court deems just and proper.

This the 18th day of September, 2009.

GARY K. CLEMMONS
CHESNUTT, CLEMMONS, PEACOCK
& LONG, P.A.

225-C Broad Street
P.O. Box 12530
New Bern, NC 28561
(252) 633-6868
N.C. Bar No. 9750

STATE OF NORTH CAROLINA

File No.

9CV01916

CRAVEN County

In The General Court Of Jus
 District Superior Court I

Name Of Plaintiff
Betrina Y. Jenkins
Address
2812 Streets Ferry Road
City, State, Zip
Vanceboro, NC 28586

CIVIL SUMMONS
 ALIAS AND PLURIES SUMMONS

G.S. 1A-1,

VERSUS

Name Of Defendant(s)
Inell Jackson Whipper
302 Mill Road
Vanceboro, NC 28586

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1
Inell Whipper Jackson
302 Mill Rd.
Vanceboro, NC 28586

ENTERED
1190
9-23-09

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if None, Address Of Plaintiff)
Gary H. Clemmons
225 C Broad St., PO Box 12530, New Bern, NC
New Bern, NC 28561

Date Issued 9-18-09 Time 3:59 AM PM
Signature [Signature]
 Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement Time AM PM
Signature
 Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$1 less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and so, what procedure is to be followed.

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Name Of Defendant
9.28.09	1730		Jrell Whimper

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

[Empty box for name and address]

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

FILED
 09 SEP 30 AM 11:33
 CRANE COUNTY, O.S.C.
 BK

DEFENDANT 2

Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

[Empty box for name and address]

Other manner of service (specify)

Defendant WAS NOT served for the following reason.

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received 9.22.09	Name Of Sheriff (Type Or Print) Jen G. [Signature] Sgt 121/150
Date Of Return 9.28.09	County Of Sheriff CRAWLER

NORTH CAROLINA
CRAVEN COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
09 CVD 1916

BETRINA Y. JENKINS,)
Plaintiff,))
vs.))
INELL WHIMPER-JACKSON,)
Defendant.))

OFFER OF JUDGMENT

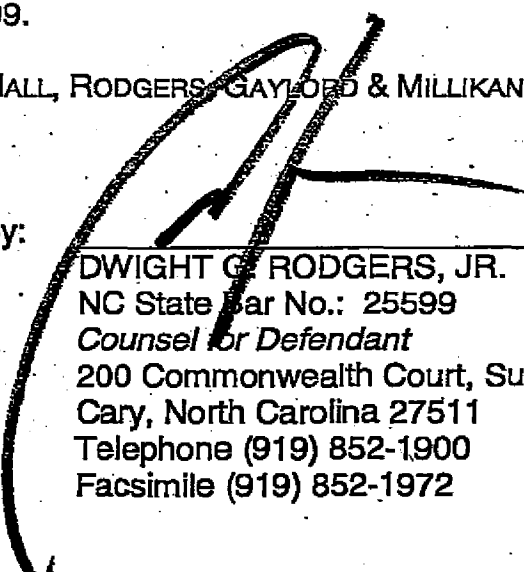
NOW COMES Defendant, through counsel, pursuant to Rule 68 of the North Carolina Rules of Civil Procedure, and hereby offers to allow judgment to be taken against her in this action for the total sum, in aggregate, including attorney's fees, of EIGHT THOUSAND FIVE HUNDRED ONE AND NO/100 DOLLARS (\$8,501.00) plus costs now accrued. This offer is made for the purposes set out in Rule 68 of the North Carolina Rules of Civil Procedure, and for no other purpose.

Take notice that if this offer is not accepted within ten (10) days of its service, it shall be deemed withdrawn.

This the 12th day of November, 2009.

HALL, RODGERS, GAYLORD & MILLIKAN, P.L.L.C

By:



DWIGHT G. RODGERS, JR.
NC State Bar No.: 25599
Counsel for Defendant
200 Commonwealth Court, Suite 200
Cary, North Carolina 27511
Telephone (919) 852-1900
Facsimile (919) 852-1972

CERTIFICATE OF SERVICE

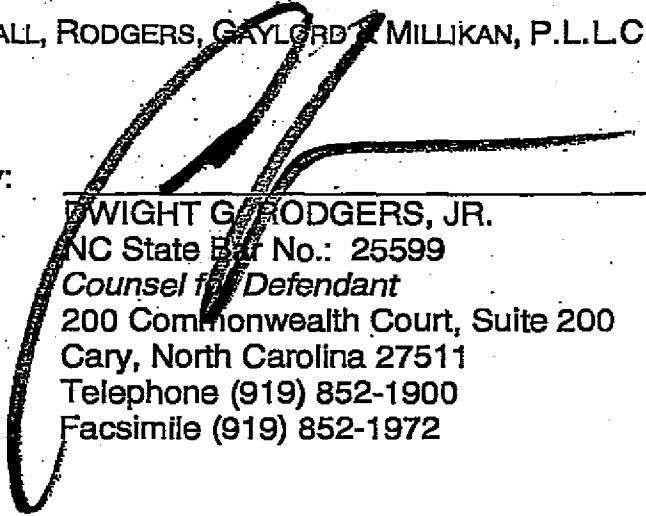
This is to certify that the undersigned has this date served OFFER OF JUDGMENT in the above-entitled action on all parties to this cause by depositing the original and/or copy hereof, postage pre-paid, in the United States mail, addressed to the attorney(s) for said parties as follows:

Gary H. Clemmons, Esquire
CHESNUTT, CLEMMONS, PEACOCK & LONG, PA
225-C Broad Street
P.O. Box 12530
New Bern, NC 28561
Counsel for Plaintiff

This the 12th day of November, 2009.

HALL, RODGERS, GAYLORD & MILLIKAN, P.L.L.C

By:



DWIGHT G. RODGERS, JR.
NC State Bar No.: 25599
Counsel for Defendant
200 Commonwealth Court, Suite 200
Cary, North Carolina 27511
Telephone (919) 852-1900
Facsimile (919) 852-1972

FILED
09 NOV 30 PM 1:44
GRAVEN COUNTY, C.S.C.

NORTH CAROLINA
GRAVEN COUNTY

BY _____ IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
09 CVD 1916

BETRINA Y. JENKINS,

Plaintiff.

MOTION TO TRANSFER AND ANSWER OF
DEFENDANT

vs.

INELL WHIMPER-JACKSON,

Defendant.

DEFENDANT'S MOTION TO TRANSFER MATTER TO SUPERIOR COURT

NOW COMES Defendant, through counsel, and hereby respectfully moves the Court pursuant to N.C.G.S. §1A-1, Rule 12(b) to transfer this action to Superior Court Division of the General Court of Justice, on the grounds that this is an action for personal injury which arises out of a motor vehicle accident which took place on January 27, 2009 and seeks damages arising out of the alleged negligence of the Defendant. Based upon information and belief the aggregate damages sought in the Complaint are in excess of the jurisdiction of the District Court division, pursuant to N.C.G.S. §7A-243, and that the District Court Division is an improper division for the trial of this matter. Further, the Superior Court Division is an appropriate division for the trial of this matter.

FIRST DEFENSE - ANSWER

NOW COMES Defendant, by and through the undersigned counsel, and responding to the individually numbered paragraphs of the Plaintiff's Complaint, alleges and says as follows:

1. Admitted, upon information and belief.
2. Admitted.

3. Admitted, upon information and belief.

4. Admitted.

5. The allegations contained in Paragraph 5 of the Complaint are generally admitted.

6. It is admitted that there was an accident involving the vehicle being operated by the Plaintiff and the vehicle being operated by the Defendant. Except as specifically admitted herein, the remaining allegations contained in Paragraph 6 of the Complaint are denied.

7. Each and every allegation contained in Paragraph 7 of the Complaint, including each subpart (a) through (e), are denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

**EACH AND EVERY OTHER ALLEGATION CONTAINED IN THE COMPLAINT,
NOT SPECIFICALLY ADMITTED HEREIN, IS DENIED.**

SECOND DEFENSE – CONTRIBUTORY NEGLIGENCE

As an additional defense, it is alleged, that if it should be determined that the Defendant was negligent, and that such negligence was a proximate cause of any injury or damage sustained by the Plaintiff, which is again specifically denied, then it is alleged that on the occasion complained of, Plaintiff was negligent, in that she:

- (a) Operated a vehicle upon the highways of the state of North Carolina without due caution and circumspection so as to endanger or be likely to endanger the person or property of others;

- (b) By failing to see before stopping in the roadway such movement could be made safely;
- (c) By failing to properly and timely give signal of her intention to turn;
- (d) Operated her vehicle upon the streets or highways of the state of North Carolina without maintaining proper control over it;
- (e) Operated a vehicle upon the highways of the state of the North Carolina without maintaining a proper lookout; and
- (f) Was negligent in other ways as will be determined through the course of discovery and at the trial of this matter.

The aforementioned acts and omissions of negligence, and each of them, were a direct and proximate cause of any injury or damage sustained by the Plaintiff and are specifically pled as contributory negligence in bar of any right which Plaintiff might otherwise have to recover herein.

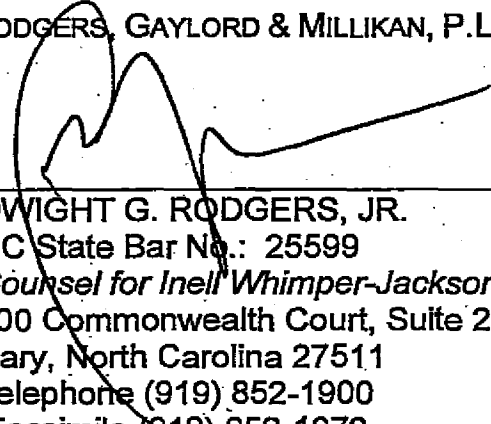
WHEREFORE, having moved the Court for an Order transferring this case to the Superior Court division and having fully answered the Complaint and set forth the affirmative defense of contributory negligence, the Defendant prays unto the Court as follows:

1. That this case be transferred to the Superior Court Division for trial;
2. That Plaintiff have and recover nothing of this answering Defendant and that Plaintiff's claims be dismissed;
3. That the costs of this action be taxed against Plaintiff;
4. For a trial by jury of all issues of fact so triable herein; and
5. For such other and further relief as the court may deem just and proper.

This the 25th day of November, 2009.

HALL, RODGERS, GAYLORD & MILLIKAN, P.L.L.C

By:



DWIGHT G. RODGERS, JR.
NC State Bar No.: 25599
Counsel for Inell Whimper-Jackson
200 Commonwealth Court, Suite 200
Cary, North Carolina 27511
Telephone (919) 852-1900
Facsimile (919) 852-1972

CERTIFICATE OF SERVICE

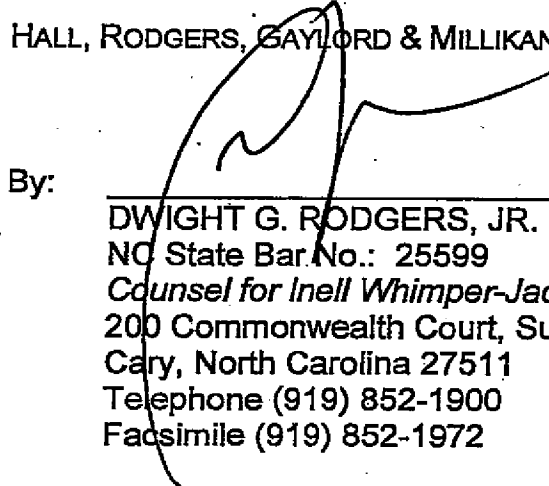
This is to certify that the undersigned has this date served **MOTION TO TRANSFER AND ANSWER OF DEFENDANT** in the above-entitled action on all parties to this cause by depositing the original and/or copy hereof, postage pre-paid, in the United States mail, addressed to the attorney(s) for said parties as follows:

Gary H. Clemmons, Esquire
Chestnutt, Clemmons, Peacock & Long, P.A.
PO Box 12530
New Bern, NC 28561-2530
Counsel for Plaintiff

This the 25th day of November, 2009.

HALL, RODGERS, GAYLORD & MILLIKAN, P.L.L.C

By:



DWIGHT G. RODGERS, JR.
NC State Bar No.: 25599
Counsel for Inell Whimper-Jackson
200 Commonwealth Court, Suite 200
Cary, North Carolina 27511
Telephone (919) 852-1900
Facsimile (919) 852-1972